

Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Ronnie Abrams  
United States District Court  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Centre Street, Room 2203  
New York, NY 10007-1501

Dear Judge Abrams:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2024, 2025, or 2026.

Enclosed please find my resume, transcripts, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,



Shelby E. Butt

Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Rossie David Alston, Jr.  
United States District Court  
Eastern District of Virginia  
Albert V. Bryan United States Courthouse  
401 Courthouse Square, 6th Floor  
Alexandria, VA 22314-5704

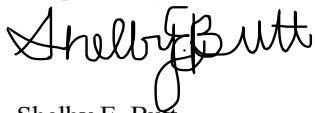
Dear Judge Alston:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2024–2025 term.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink that reads "Shelby E. Butt". The signature is written in a cursive, flowing style with a large initial "S".

Shelby E. Butt

Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
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June 12, 2023

The Honorable John D. Bates  
United States District Court  
District of Columbia  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 4114  
Washington, DC 20001

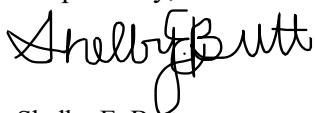
Dear Judge Bates:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2025–2026 term. I am interested in clerking in D.C. because I have greatly enjoyed living there during my time as a Georgetown undergraduate, young professional, and summer associate at Williams & Connolly.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

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June 12, 2023

The Honorable Leonie M. Brinkema  
United States District Court  
Eastern District of Virginia  
Albert V. Bryan United States Courthouse  
401 Courthouse Square, 7th Floor  
Alexandria, VA 22314-5704

Dear Judge Brinkema:

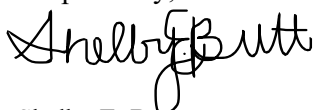
I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2024–2025 term.

Having previously worked in the U.S. Intelligence Community, I am particularly interested in a clerkship with you because of the large number of national security-related cases on your docket. Additionally, I would welcome the opportunity to begin my legal career in the D.C. metro area because I have greatly enjoyed living there as a Georgetown undergraduate, young professional, and summer associate at Williams & Connolly. I am committed to practicing in the D.C. area after graduation and hope to pursue a career in the federal government.

Enclosed please find my resume, transcripts, and writing sample. Also enclosed are letters of recommendation from Professors Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu) and Daniel C. Richman (212 854-9370, drichm@law.columbia.edu). In addition, the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (212 555-5678, profz@columbia.edu), Ref #2, Ref #3 have agreed to serve as references.

Thank you for your time and consideration. Should you require any additional information, please do not hesitate to contact me.

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June 12, 2023

The Honorable Andrew L. Carter  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Dear Judge Carter:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2024–2025 term.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

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seb2243@columbia.edu

June 12, 2023

The Honorable P. Kevin Castel  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 1020  
New York, NY 10007-1312

Dear Judge Castel:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2024–2025 term.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink that reads "Shelby E. Butt". The signature is written in a cursive, flowing style with a large, stylized "S" and "B".

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June 12, 2023

The Honorable Rudolph Contreras  
United States District Court  
District of Columbia  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 4903  
Washington, DC 20001


Dear Judge Contreras:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2025 or 2026. I am interested in clerking in D.C. because I have greatly enjoyed living there during my time as a Georgetown undergraduate, young professional, and summer associate at Williams & Connolly.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov). In addition, Professor Lev Menand (212 854-0409, lmenand@law.columbia.edu), AUSA Sara Winik of the U.S. Attorney's Office for the Eastern District of New York (sara.winik@usdoj.gov), and AUSA Genny Ngai of the U.S. Attorney's Office for the Eastern District of New York (347 482-9581, genny.ngai@usdoj.gov) have agreed to serve as references.

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

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seb2243@columbia.edu

June 12, 2023

The Honorable Denise Cote  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 1910  
New York, NY 10007-1312

Dear Judge Cote:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2025 or any time thereafter.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

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June 12, 2023

The Honorable Paul A. Engelmayer  
United States District Court  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Centre Street, Room 2201  
New York, NY 10007-1501

Dear Judge Englemayer:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2025–2026 term.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

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June 12, 2023

The Honorable Dabney Langhorne Friedrich  
United States District Court  
District of Columbia  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 4335  
Washington, DC 20001

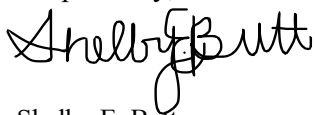
Dear Judge Friedrich:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2025–2026 term. I am interested in clerking in D.C. because I have greatly enjoyed living there during my time as a Georgetown undergraduate, young professional, and summer associate at Williams & Connolly.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

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June 12, 2023

The Honorable Jesse M. Furman  
United States District Court  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Centre Street, Room 2202  
New York, NY 10007-1501

Dear Judge Furman:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2025 or any time thereafter.

Enclosed please find my resume, transcripts, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

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1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Paul G. Gardephe  
United States District Court  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Centre Street, Room 2204  
New York, NY 10007-1501

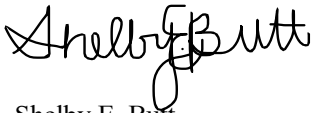
Dear Judge Gardephe:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2024–2025 term.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

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Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Elizabeth W. Hanes  
United States District Court  
Eastern District of Virginia  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

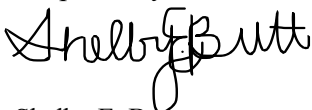
Dear Judge Hanes:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a one-term clerkship in your chambers beginning in 2024 or any time thereafter.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

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1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Beryl A. Howell  
United States District Court  
District of Columbia  
William B. Bryant United States Courthouse Annex  
333 Constitution Avenue, N.W., Room 2010  
Washington, DC 20001

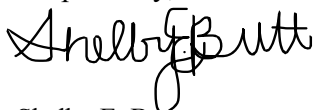
Dear Judge Howell:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2025. I am interested in clerking in D.C. because I have greatly enjoyed living there during my time as a Georgetown undergraduate, young professional, and summer associate at Williams & Connolly.

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Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

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1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Kenneth M. Karas  
United States District Court  
Southern District of New York  
Charles L. Brieant, Jr. United States Courthouse  
300 Quarropas Street, Room 533  
White Plains, NY 10601-4150

Dear Judge Karas:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2025–2026 term. I am particularly interested in clerking for you because of the relatively high number of national security-related cases on your docket.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

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June 12, 2023

The Honorable Timothy James Kelly  
United States District Court  
District of Columbia  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W.  
Washington, DC 20001

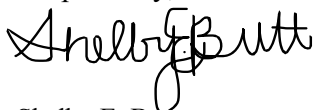
Dear Judge Kelly:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2025. I am interested in clerking in D.C. because I have greatly enjoyed living there during my time as a Georgetown undergraduate, young professional, and summer associate at Williams & Connolly.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

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June 12, 2023

The Honorable Eric Ross Komitee  
United States District Court  
Eastern District of New York  
Emanuel Celler Federal Building  
225 Cadman Plaza East, Room 406 N  
Brooklyn, NY 11201-1818

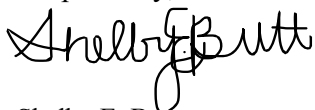
Dear Judge Komitee:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2025. I am interested in clerking in Brooklyn because I greatly enjoyed the time I spent interning at the U.S. Attorney's Office for the Eastern District of New York.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

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1930 Broadway, 6B  
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June 12, 2023

The Honorable Rachel P. Kovner  
United States District Court  
Eastern District of New York  
Emanuel Celler Federal Building  
225 Cadman Plaza East, Room 420N  
Brooklyn, NY 11201-1818

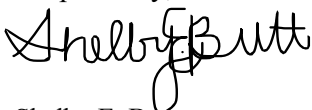
Dear Judge Kovner:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2025. I am interested in clerking in Brooklyn because I greatly enjoyed the time I spent interning at the U.S. Attorney's Office for the Eastern District of New York.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

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Shelby E. Butt

Shelby E. Butt  
(214) 912-9875  
[seb2243@columbia.edu](mailto:seb2243@columbia.edu)

Current Address  
1930 Broadway, 6B  
New York, NY 10023

Permanent Address  
711 Grandview Place  
San Antonio, TX 78209

June 12, 2023

The Honorable Royce C. Lamberth  
United States District Court  
District of Columbia  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 2010  
Washington, DC 20001

Dear Judge Lamberth:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2024.

I am particularly interested in clerking for you because I am a native Texan who has enjoyed living in D.C. during my time as a Georgetown undergraduate, young professional, and summer associate at Williams & Connolly. A clerkship in your chambers would allow me the unique opportunity to assist in the important work of the court in both San Antonio and D.C.

Enclosed please find my resume, transcripts, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, [mwaxma@law.columbia.edu](mailto:mwaxma@law.columbia.edu)), Professor Daniel C. Richman (212 854-9370, [drichm@law.columbia.edu](mailto:drichm@law.columbia.edu)), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York ([jed\\_s\\_rakoff@nysd.uscourts.gov](mailto:jed_s_rakoff@nysd.uscourts.gov)).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,

  
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June 12, 2023

The Honorable Lewis J. Liman  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 701  
New York, NY 10007-1312

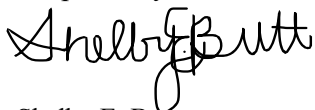
Dear Judge Liman:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2025 or 2026.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,



Shelby E. Butt

Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Trevor N. McFadden  
United States District Court  
District of Columbia  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 2528  
Washington, DC 20001

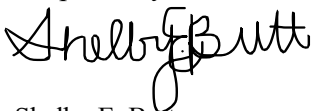
Dear Judge McFadden:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2026–2027 term. I am interested in clerking in D.C. because I have greatly enjoyed living there during my time as a Georgetown undergraduate, young professional, and summer associate at Williams & Connolly.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,



Shelby E. Butt

Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Randolph D. Moss  
United States District Court  
District of Columbia  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 4317  
Washington, DC 20001

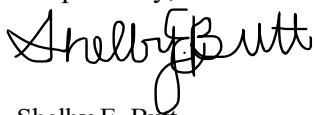
Dear Judge Moss:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2025–2026 term. I am interested in clerking in D.C. because I have greatly enjoyed living there during my time as a Georgetown undergraduate, young professional, and summer associate at Williams & Connolly.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,



Shelby E. Butt

Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Carl J. Nichols  
United States District Court  
District of Columbia  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 6321  
Washington, DC 20001

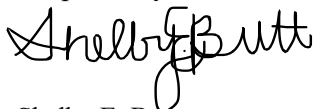
Dear Judge Nichols:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2025–2026 term. I am interested in clerking in D.C. because I have greatly enjoyed living there during my time as a Georgetown undergraduate, young professional, and summer associate at Williams & Connolly.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov). DOES HE REQUIRE REFERENCES??? CHECK OSCAR

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,



Shelby E. Butt



Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable J. Paul Oetken  
United States District Court  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Centre Street, Room 2101  
New York, NY 10007-1501

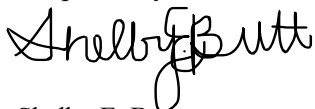
Dear Judge Oetken:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2024–2025 or 2025–2026 term.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov). In addition, Professor Lev Menand (212 854-0409, lmenand@law.columbia.edu), AUSA Sara Winik of the U.S. Attorney's Office for the Eastern District of New York (sara.winik@usdoj.gov), and AUSA Genny Ngai of the U.S. Attorney's Office for the Eastern District of New York (347 482-9581, genny.ngai@usdoj.gov) have agreed to serve as references.

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,



Shelby E. Butt



Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Jennifer H. Rearden  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Dear Judge Rearden:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2024 or any time thereafter.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,



Shelby E. Butt

Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Ana C. Reyes  
United States District Court  
District of Columbia  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 4317  
Washington, DC 20001

Dear Judge Reyes:


I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers for the 2025–2026 term.

I am interested in clerking in D.C. because I have greatly enjoyed living there during my time as a Georgetown undergraduate, young professional, and summer associate at Williams & Connolly. I intend to practice in D.C. after graduation, and I hope to serve as an AUSA in the District of D.C. later in my career. I am particularly interested in clerking in your chambers in particular because of your background in international disputes and because I want to clerk for a judge who can provide me with strong female mentorship during my time in chambers and throughout my career.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,

  
Shelby E. Butt

Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Patti B. Saris  
United States District Court  
District of Massachusetts  
John Joseph Moakley United States Courthouse  
One Courthouse Way, Room 8110  
Boston, MA 02210-3002

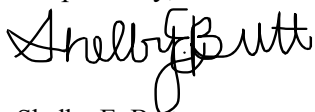
Dear Judge Saris:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2024. I am interested in clerking in Boston because I greatly enjoyed living there during my high school years.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,



Shelby E. Butt

Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Leo T. Sorokin  
United States District Court  
District of Massachusetts  
John Joseph Moakley United States Courthouse  
One Courthouse Way, Room 6130  
Boston, MA 02210-3002

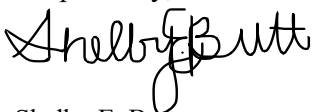
Dear Judge Sorokin:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2024. I am interested in clerking in Boston because I greatly enjoyed living there during my high school years.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,



Shelby E. Butt

Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Eric N. Vitaliano  
United States District Court  
Eastern District of New York  
Theodore Roosevelt United States Courthouse  
225 Cadman Plaza East, Room 707 S  
Brooklyn, NY 11201-1818

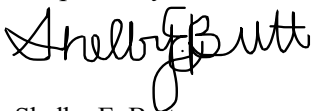
Dear Judge Vitaliano:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2024. I am interested in clerking in Brooklyn because I greatly enjoyed the time I spent interning at the U.S. Attorney's Office for the Eastern District of New York.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,



Shelby E. Butt

Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Mary Kay Vyskocil  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 2230  
New York, NY 10007-1312

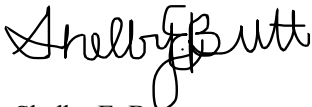
Dear Judge Vyskocil:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers beginning in 2025.

Enclosed please find my resume, transcript, and writing samples – does she require two?? Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,



Shelby E. Butt



Shelby E. Butt  
1930 Broadway, 6B  
New York, NY 10023  
(214) 912-9875  
seb2243@columbia.edu

June 12, 2023

The Honorable Jamar K. Walker  
United States District Court  
Eastern District of Virginia  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

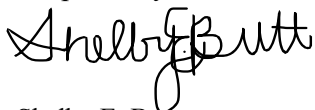
Dear Judge Walker:

I am a rising third-year student, James Kent Scholar, and Executive Online Editor of the *Columbia Journal of Transnational Law* at Columbia Law School. I write to apply for a clerkship in your chambers during the 2024–2025 term.

Enclosed please find my resume, transcript, and writing sample. Also enclosed are letters of recommendation from Professor Matthew C. Waxman (212 854-0592, mwaxma@law.columbia.edu), Professor Daniel C. Richman (212 854-9370, drichm@law.columbia.edu), and the Honorable Jed S. Rakoff of the U.S. District Court for the Southern District of New York (jed\_s\_rakoff@nysd.uscourts.gov).

Thank you for your time and consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,



Shelby E. Butt

**SHELBY E. BUTT**

1930 Broadway #6B, New York, NY 10023 • seb2243@columbia.edu • (214) 912-9875

**EDUCATION**

**Columbia Law School**, New York, NY

J.D. expected May 2024

Honors: James Kent Scholar, 2022-2023

Harlan Fiske Stone Scholar, 2021-2022

Activities: *Columbia Journal of Transnational Law*, Executive Online Editor

Teaching Assistant for The Honorable Jed S. Rakoff (Criminal Law), Spring 2023

Research Assistant to Professor Matthew C. Waxman, 2023-2024

National Security Law Society, Co-President

**Georgetown University, School of Foreign Service**, Washington, DC

B.S.F.S., in International Politics, Minor in Arabic, *cum laude*, received May 2020

Honors: Collegiate Rowing Coaches' Association Scholar-Athlete Award, 2017

Varsity Letter Winner, May 2020

Activities: Varsity Women's Lightweight Crew (NCAA Division I)

Georgetown Undergraduate Scholars Program, Undergraduate Research Scholar

Kappa Alpha Theta, Scholarship Director and Executive Recruitment Board

**EXPERIENCE**

**Williams & Connolly**, Washington, DC

Summer 2023

*Summer Associate*

Researched and wrote memoranda on criminal forfeiture law, TILA claims, and qui tam suits. Drafted a motion in limine to exclude expert testimony in a federal criminal fraud case. Worked with attorneys to develop case strategy and provide litigation counseling to clients on white collar civil and criminal matters.

**U.S. Attorney's Office for the Eastern District of New York**, Brooklyn, NY

Summer 2022

*Intern, Criminal Division*

Supported AUSAs in the National Security & Cybercrime and International Narcotics & Money Laundering divisions by drafting sentencing memos, conducting legal research, reviewing evidence, and assisting with trial prep. Spoke on behalf of the U.S. government in court proceedings under the guidance of experienced prosecutors.

**Entegra Systems**, Langley, VA

July 2020 - June 2021

*Intelligence Officer (Level 1)*

Served as a Desk Officer for a U.S. Government client within the U.S. Intelligence Community (IC). Trained in IC style cable-writing, case study analysis, and short form briefing. Maintained an active TOP SECRET/Sensitive Compartmented Information (TS/SCI) security clearance issued by the U.S. Department of Defense.

**Council on Foreign Relations**, Washington, DC

Spring 2020

*Intern for Middle East and U.S. Foreign Policy*

Edited and fact checked quotes, anecdotes, and references in CFR publications. Conducted research and wrote memos on the Qatar Crisis, Russia-Saudi Arabia oil price war, and ISIS in Syria to prepare CFR personnel for round table meetings and congressional testimonies.

**National Security Agency**, Fort Meade, MD

Summer 2019

*Intelligence Analysis Intern*

Attained knowledge and skills in signals intelligence (SIGINT) and intelligence analysis through work in the NSA's Directorate of Operations. Obtained a TS/SCI security clearance. Presented a final project and methodology paper to NSA senior leadership and received the Internship Spotlight Award for outstanding work.

**LANGUAGE SKILLS:** Spanish (proficient), Arabic (intermediate), Russian (basic), French (basic)

**PUBLICATIONS:** Shelby Butt and Daniel Byman. "Right-Wing Extremism: The Russian Connection." *Survival*, vol. 62, no. 2, 2020, pp. 137-52.

**VOLUNTEER WORK:** Georgetown Alumni Admissions Interviewer (2020-Present), Phillips Academy Andover Class Agent (2016-Present).

**INTERESTS:** Documentary films, foreign languages, and running with Bella, my three-year-old German shepherd.



Registration Services

law.columbia.edu/registration  
435 West 116th Street, Box A-25  
New York, NY 10027  
T 212 854 2668  
registrar@law.columbia.edu

CLS TRANSCRIPT (Unofficial)

06/07/2023 23:09:14

Program: Juris Doctor

Shelby E Butt

Spring 2023

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6241-1	Evidence	Capra, Daniel	4.0	A
L6429-1	Federal Criminal Law	Richman, Daniel	3.0	A-
L9327-1	S. Internet and Computer Crimes [ Minor Writing Credit - In Progress ]	DeMarco, Joseph; Komatireddy, Saritha	2.0	A
L6683-1	Supervised Research Paper	Waxman, Matthew C.	1.0	CR
L6822-1	Teaching Fellows	Rakoff, Jed	3.0	CR

**Total Registered Points: 13.0**

**Total Earned Points: 13.0**

Fall 2022

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6238-1	Criminal Adjudication	Richman, Daniel	3.0	A-
L6169-2	Legislation and Regulation	Menand, Lev	4.0	A
L6675-1	Major Writing Credit	Waxman, Matthew C.	0.0	CR
L6274-2	Professional Responsibility	Fox, Michael Louis	2.0	A
L8951-1	S. Cybersecurity, Data Privacy and Surveillance Law	Richman, Daniel; Tannenbaum, Andrew; Waxman, Matthew C.	2.0	A
L6683-1	Supervised Research Paper	Waxman, Matthew C.	1.0	CR

**Total Registered Points: 12.0**

**Total Earned Points: 12.0**

Spring 2022

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6133-2	Constitutional Law	Ponsa-Kraus, Christina D.	4.0	A-
L6108-3	Criminal Law	Rakoff, Jed	3.0	A
L6679-1	Foundation Year Moot Court		0.0	CR
L6121-20	Legal Practice Workshop II	Statsinger, Steven	1.0	P
L6116-3	Property	Heller, Michael A.	4.0	A-
L6912-1	Transnational Litigation	Smit, Robert	3.0	A

**Total Registered Points: 15.0**

**Total Earned Points: 15.0**

Page 1 of 2

**January 2022**

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6130-6	Legal Methods II: International Problem Solving	Hakimi, Monica	1.0	CR

**Total Registered Points: 1.0**

**Total Earned Points: 1.0**

**Fall 2021**

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6101-3	Civil Procedure	Johnson, Olatunde C.A.	4.0	A-
L6105-5	Contracts	Arato, Julian	4.0	B
L6113-1	Legal Methods	Ginsburg, Jane C.	1.0	CR
L6115-20	Legal Practice Workshop I	Statsinger, Steven; Yoon, Nam Jin	2.0	P
L6118-2	Torts	Merrill, Thomas W.	4.0	B+

**Total Registered Points: 15.0**

**Total Earned Points: 15.0**

**Total Registered JD Program Points: 56.0**

**Total Earned JD Program Points: 56.0**

**Honors and Prizes**

Academic Year	Honor / Prize	Award Class
2022-23	James Kent Scholar	2L
2021-22	Harlan Fiske Stone	1L

**Pro Bono Work**

Type	Hours
Mandatory	40.0
Voluntary	7.0

June 11, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I have worked closely with Shelby Butt inside and outside the classroom, and I know she will make a superb clerk.

During the Fall of her 2L year, Shelby was a top student in my seminar on Cybersecurity, Data Privacy and Surveillance Law. Additionally, I advised Shelby on the Note she wrote for the Columbia Journal of Transnational Law (CJTL). Titled Old Laws and New Tricks: Interpreting Existing Legal Authorities to Regulate the Data Brokerage Industry. Her Note proposed using existing export-control regulations to circumscribe the sale of U.S. persons' sensitive personal data to foreign entities and individuals. Her work in the seminar and on the Note displayed outstanding research, writing, and analytical skills--including very careful and thoughtful parsing of difficult statutory, regulatory, and legislative history materials. She has all the makings of a terrific lawyer. Indeed, her work has been so outstanding that I have recruited her to serve next year as my research assistant.

Shelby has a sterling transcript--she is virtually a lock for some of our highest academic honors--and she is a leader in the Columbia Law School community, including serving as co-president of the National Security Law Society (I am a faculty advisor to that student group, so I had the great fortune of working with her to organize several terrific events and programs). Testifying further to the high regard in which her classmates hold her, Shelby now serves on the editorial board of the Columbia Journal of Transnational Law. As a highly-accomplished former scholar-athlete, she brings great energy to all her pursuits.

Shelby's professional experience to date shows her deep and longstanding interest in public service, and she hopes to pursue a career as a federal prosecutor or government attorney. I have been immensely impressed with Shelby's skills, intellect and work ethic and I know she will be a superb clerk and stellar public servant.

I highly recommend this outstanding candidate.

Sincerely,

Matthew Waxman  
Liviu Librescu Professor of Law  
Faculty Chair of the National Security Law Program

Matthew Waxman - mwaxma@law.columbia.edu - 212-854-0592

COLUMBIA LAW SCHOOL  
435 West 116th Street  
New York, NY 10027

June 11, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

**Re: Shelby Butt**

Dear Judge Walker:

I write to enthusiastically support the application of Shelby Butt — a rising Columbia Law School 3L, Class of 2024 — to clerk in your Chambers. She has a keen intelligence, excellent writing skills, wonderful organizational and leadership abilities, and a commitment to public service that together — and coupled with her determined and calm personality — would equip her perfectly for the job.

I've seen quite a lot of Shelby during her 2L year. In the Fall, she took my Criminal Adjudication course and the seminar on Cybersecurity, Data Privacy, and Surveillance Law that I teach with my colleagues Matt Waxman and Andrew Tannenbaum. And in the Spring, she took (and did exceedingly well in) my Federal Criminal Law course. I've also had numerous office conversations with Shelby about course materials, her deep national security law interests, and her future.

Every contact I'm had with Shelby has left me enormously impressed with her cutting intellect, excellent judgment and enormous discipline. In class, her contributions have invariably been thoughtful and insightful. Never flashy, Shelby chooses her words carefully and always gets to the heart of the matter. She also writes beautifully and cleanly, and for the cyber seminar, wrote a terrific paper on regulating the data brokerage industry. Even as Congress and state authorities start (fitfully) to come to grips with that vast, virtually unregulated industry, Shelby explored how, at least when it comes to the sale of US persons' data to foreign entities, the Export Control Reform Act of 2018 (ECRA) and the Export Administration Regulations (EAR) provide some basis for Commerce Department intervention. It was a masterful piece of thorough analysis, at the cutting edge of regulatory possibility, and powerful evidence of Shelby's ability to work through a new and complex regulatory framework in service of privacy and national security concerns.

Shelby's interest in national security matters is broad and deep. She went to Georgetown's Walsh School of Foreign Service, drawn by her interest in the Middle East and her desire to pursue a career in the Intelligence Community. She spent the summer before her senior year as a "token non-STEM hire" at the NSA (in Operations) and developed sufficient technical expertise to be offered a fulltime job there after graduation. She turned that down however, and, having more interest in human source collection, was about to start as an Operations Officer at CIA, when COVID intervened and delayed her clearance process. She used this time to attend Russian language school and improve her Arabic dialects, but also to reconsider her career choice and see law school as a way to continue to work in national security in new settings. The events of January 6 only confirmed her decision. She writes: "Turning down the opportunity to become a CIA Operations Officer is the hardest decision I've made to date, but a J.D. would only help me in a career protecting the people and Constitution of the United States, especially when some of the biggest threats are coming from within the country's own borders."

The meaningful work Shelby got to do during 1L summer at the EDNY USAO solidified her ambition to be an AUSA. She certainly has the judgment, intellect, and decency to be a terrific prosecutor — I just need her to speak a little more loudly. She's working on that, and what Shelby works on she succeeds at. I wasn't surprised to learn that she was a varsity lightweight rower at Georgetown, as discipline, time-management and dedication are foundational to the way she engages with the world.

With her cutting intelligence, hyper-competence, common sense, and commitment to public service, I expect great things of Shelby. I am also confident that she would be an extraordinary law clerk, a delight to work with and a career to watch. If there is anything else I can add, please give me a call.

Respectfully yours,

Daniel Richman

Dan Richman - drichm@law.columbia.edu - 212-854-9370

UNITED STATES DISTRICT COURT  
UNITED STATES COURTHOUSE  
500 PEARL STREET  
NEW YORK, NEW YORK 10007

JED S. RAKOFF  
UNITED STATES DISTRICT JUDGE

May 5, 2023

**Re: Shelby E. Butt**

Dear Judge:

This letter is written in my capacity as a long-time professor at Columbia Law School to enthusiastically recommend my teaching assistant Shelby Butt for a position as your law clerk. As the rest of this letter will demonstrate, Shelby has every quality needed to be an outstanding law clerk. Indeed, it is only because of my strict and long-standing policy against offering a clerkship to anyone who serves as my teaching assistant that I cannot grab her for my own law clerk!

Shelby is a classic case of someone who took a little while to get the "feel" of the law (- her initial grades her first semester were mixed -), but, once she did, not only achieved outstanding grades but also demonstrated that she had a brilliant legal mind. I know this first hand, because Shelby was a student her second semester in my Criminal Law class, a huge class of over 105 students where it would be easy to "disappear." But not Shelby! Not only did she give great answers when called upon in class, but also she turned in a near-perfect exam that put her at the very very top of the class - and led me to ask her to be my teaching assistant this year.

I expect a lot of my T.A.'s: teaching weekly review sessions, devising hypotheticals for each class, grading midterm exams, meeting with students individually, devoting substantial time to those students needing extra help, etc., etc. Shelby not only met this challenge - executing every aspect of the job in a helpful, indefatigable, and totally successful way - but did so with such warmth and conscientiousness that she was a great favorite with my students (and with me).

As you will see from Shelby's resume, she is also a very broad-based person with a wide variety of prior experiences that will make her even more an asset to your chambers. Among much else, before coming to law school, she served for a year as a U.S. intelligence officer and co-authored an excellent published article on the rise of far-right extremism in Russia. At the same time, she is totally down-to-earth, unpretentious, and a pleasure to work with.

In short, Shelby is both a marvelous person and a great student of the law, and has every quality needed to be a superb law clerk. I recommend her most highly!

Very truly yours,

  
Jed S. Rakoff



**SHELBY E. BUTT**

Columbia Law School J.D. '24

214-912-9875

seb2243@columbia.edu

**CLERKSHIP APPLICATION WRITING SAMPLE**

This writing sample is a paper I wrote for a course titled L9327-1: Seminar on Internet and Computer Crimes. The course considered how crimes committed in cyberspace challenge traditional investigatory and prosecutorial tools and covered topics such as the Fourth Amendment in cyberspace, the law of electronic surveillance, computer hacking, computer viruses, and cyberterrorism. Students were required to write two 2,000-word papers on a topic of their choice related to one of the issues discussed in class, and I wrote about the prospect of using the Computer Fraud and Abuse Act to prosecute Zoom-bombings, a cyber-harassment technique that gained popularity during the Covid-19 pandemic. I revised this paper in response to high-level feedback received from my seminar professor before submitting it as a writing sample.

## THE POTENTIAL FOR CFAA PROSECUTIONS OF ZOOM-BOMBINGS

**Introduction**

Zoom-bombing refers to the unwanted disruption of any video conference, usually by an uninvited participant using the platform's screensharing function to project racist, hateful, or pornographic material onto the screens of other meeting participants.<sup>1</sup> The practice gained popularity during the Covid-19 pandemic when many were forced to substitute virtual meetings for in-person events.<sup>2</sup> Since March 2020, Zoom-bombing incidents have impacted online classes,<sup>3</sup> Alcoholics Anonymous meetings,<sup>4</sup> religious services, and countless other virtual gatherings, often targeting meetings based on the identity of their participants.<sup>5</sup>

Because Zoom-bombing is a relatively new form of cybercrime, no federal or state statutes explicitly criminalize it. This leaves prosecutors the task of figuring out which, if any, existing statutes can be used to prosecute it. During the early days of the pandemic, the U.S. Attorney's Office for the Eastern District of Michigan indicated that Zoom-bombing could be prosecuted as a federal crime.<sup>6</sup> Although not explicitly cited in their press release, the Computer Fraud and Abuse Act (CFAA) is the federal statute most readily suited for this task because it provides a general prohibition against computer misuse.<sup>7</sup> As the rest of this paper demonstrates,

<sup>1</sup> Taylor Lorenz, 'Zoombombing': When Video Conferences Go Wrong, N.Y. TIMES (Mar. 20, 2020), <https://www.nytimes.com/2020/03/20/style/zoombombing-zoom-trolling.html>.

<sup>2</sup> FED. BUREAU OF INVESTIGATION, *FBI Warns of Teleconferencing and Online Classroom Hijacking During COVID-19 Pandemic* (Mar. 30, 2020), <https://www.fbi.gov/contact-us/field-offices/boston/news/press-releases/fbi-warns-of-teleconferencing-and-online-classroom-hijacking-during-covid-19-pandemic>.

<sup>3</sup> *Id.*

<sup>4</sup> Taylor Lorenz & Davey Alba, 'Zoombombing' Becomes a Dangerous Organized Effort, N.Y. TIMES (Apr. 7, 2020), <https://www.nytimes.com/2020/04/03/technology/zoom-harassment-abuse-racism-fbi-warning.html>.

<sup>5</sup> What is "Zoombombing" and Who is Behind It?, ANTI-DEFAMATION LEAGUE (May 4, 2020), <https://www.adl.org/resources/blog/what-zoombombing-and-who-behind-it>.

<sup>6</sup> *Federal, State, and Local Law Enforcement Warn Against Teleconferencing Hacking During Coronavirus Pandemic*, DEPT. JUST. (Apr. 3, 2020), <https://www.justice.gov/usao-edmi/pr/federal-state-and-local-law-enforcement-warn-against-teleconferencing-hacking-during>.

<sup>7</sup> ORIN S. KERR, *COMPUTER CRIME LAW* 30 (5th ed., 2022). Although several states have their own cybercrime statutes, this paper will focus on the CFAA and federal case law.

the ability to prosecute Zoom-bombing under the CFAA is highly dependent on the facts of the case and relevant jurisdiction's case law, and attacks on password-protected meetings are more likely to be prosecutable under the CFAA.

### **The Computer Fraud and Abuse Act – 18 U.S.C. § 1030**

The CFAA outlines seven categories of prohibited behavior, but § 1030(a)(2)(C) is most useful for prosecuting Zoom-bombing because it “prohibits accessing a computer without authorization . . . and obtaining information [from it].”<sup>8</sup> To prosecute an individual under § 1030(a)(2)(C), “the Government must prove that the defendant (1) intentionally (2) accessed without authorization . . . a (3) protected computer and (4) thereby obtained information [from it].”<sup>9</sup> To assess the potential for prosecuting Zoom-bombings under the CFAA, each of these elements will be evaluated below.

#### Element One: “Intentionally”

Section 1030(a)(2)(C)'s first and third elements are easily satisfied in the context of Zoom-bombing. Intentionality, the first element, is shown by the steps a Zoom-bomber must take to carry out an attack, including clicking on the meeting's access link, typing in a password (if required), and instructing his computer to share the offensive content from his screen to those of the other participants. This multi-step process leaves little room for a defendant to argue he lacked intentionality because he took a series of specific steps to cause the ultimate result – the Zoom-bombing.

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<sup>8</sup> *Id.* Note that § 1030(a)(2)(C) also prohibits “exceed[ing] authorized access” to a computer, but “access without authorization” is more useful in the context of Zoom-bombing and will be the focus of this paper.

<sup>9</sup> *United States v. Auernheimer*, 748 F.3d 525, 533 (3d Cir. 2014).

Additionally, some Zoom-bombings are carried out by organized groups that coordinate their attacks using virtual message boards like Reddit and 4Chan.<sup>10</sup> Evidence that a defendant engaged in planning a coordinated Zoom-bombing on one of these websites would make it even more difficult for him to argue he did not act intentionally because any statements he made to others when planning the attack would memorialize his specific intent to carry it out.

### Element Three: “Protected Computer”

Like its intentionality requirement, the CFAA’s broad definition of “protected computer” makes the third element of § 1030(a)(2)(C) easy to meet in the context of Zoom-bombing. The statute defines “protected computer” to include “any device for processing or storing data . . . [that is] used in or affecting interstate or foreign commerce or communication.”<sup>11</sup> In practice, courts have interpreted this provision to cover any computer that connects to the Internet.<sup>12</sup> Since Zoom and other teleconferencing platforms require an Internet connection to function, the CFAA’s third element will inevitably be met in any Zoom-bombing prosecution.

Additionally, under current CFAA case law, the defendant does not have to directly access the victim’s computer to meet the “protected computer” requirement because courts have found other technological connections between the defendant and victim to satisfy this requirement. For example, courts have found a defendant accessing a victim’s website sufficient to meet the CFAA’s “protected computer” requirement because websites are hosted by the victim’s computer server, so anyone who accesses a website also connects to the server.<sup>13</sup> Like websites, Zoom and other videoconferencing platforms facilitate virtual meetings amongst

<sup>10</sup> Lorenz, *supra* note 4.

<sup>11</sup> 18 U.S.C. § 1030(e)(1)–(2)(B).

<sup>12</sup> See *United States v. Yücel*, 97 F. Supp. 3d 413, 418–419 (S.D.N.Y. 2015) (collecting cases).

<sup>13</sup> *hiQ Labs, Inc. v. LinkedIn Corp.*, 31 F.4th 1180, 1195 (9th Cir. 2022).

individual computers by connecting them through the parent company's servers. Thus, just as a defendant accessing a website by connecting with its server satisfies the CFAA's "protected computer" requirement, a Zoom-bomber accesses a "protected computer" by connecting to the platform's server when joining the virtual meeting to carry out his attack.<sup>14</sup>

#### Element Two: "Access Without Authorization"

The CFAA's second element is more challenging to meet in the context of Zoom-bombing, though attacks targeting password-protected meeting may constitute "access[] without authorization" under the statute.<sup>15</sup> The CFAA does not define "access" or "authorization," but recent case law provides guidance on their contours in the Zoom-bombing context. In *Van Buren v. United States*, the Supreme Court interpreted "access" as used in the CFAA to mean "the act of entering a computer system itself."<sup>16</sup> Since post-*Van Buren* cases continue to hold websites are "protected computers,"<sup>17</sup> a Zoom-bomber's entrance into a virtual meeting will constitute "access" under the statute, even if he does not enter the meeting participants' computers themselves.

The "without authorization" portion of § 1030(a)(2)(C) makes the biggest difference in determining which Zoom-bombings fall within the CFAA's scope because courts have generally interpreted "without authorization" to mean the defendant accessed the computer, website, or software program without permission.<sup>18</sup> For password-protected virtual meetings, the

<sup>14</sup> ZOOM VIDEO COMMS., *Connection Process*, <https://explore.zoom.us/docs/doc/Zoom%20Connection%20Process%20Whitepaper.pdf> (last accessed Feb. 21, 2022) ("A Zoom Meeting Zone is a logical association of servers that are physically co-located that can host a Zoom session.").

<sup>15</sup> § 1080(a)(2)(C).

<sup>16</sup> 141 S. Ct. 1648, 1658 (2021).

<sup>17</sup> See *hiQ Labs*, 31 F.4th at 1195.

<sup>18</sup> *Id.*

defendant's lack of permission in accessing the meeting is easy to show if he hacks into the meeting, bypassing any password requirement.<sup>19</sup> Additionally, case law indicates a Zoom-bomber who accesses a meeting using a legitimate password that he himself was not authorized to use could violate the CFAA, even though he did not circumvent the meeting's password requirement.<sup>20</sup> This could happen if the Zoom-bomber knows one of the meeting's participants, asks that person for the meeting password, logs into the meeting using it, and then carries out the Zoom-bombing attack. In at least the Ninth Circuit, this conduct would violate the CFAA because the perpetrator himself was not authorized to use the meeting password, so his use of it to enter the meeting is still "without authorization" even though the password itself is correct.

Access "without authorization" is harder to prove for non-password-protected meetings because the defendant's ability to enter the virtual meeting without circumventing a password requirement makes the meeting akin to a public-facing website, which some courts have held cannot be accessed "without authorization" due to their lack of limitations on access.<sup>21</sup> Other courts, however, have held that a website's lack of password protection does not render it completely without access requirements, especially when the material featured on the website is sensitive in nature and the defendant knows the website link is not publicly distributed.<sup>22</sup> This could be helpful for prosecutors in situations where the Zoom meeting itself is not password-protected but the link to it is not publicly distributed. For example, in a case where the non-password-protected virtual meeting link is shared amongst friends and the defendant somehow obtains the link and accesses the meeting to carry out a Zoom-bombing, a prosecutor could argue

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<sup>19</sup> See *United States v. Phillips*, 477 F.3d 215, 220–221 (5th Cir. 2007) (where a defendant's use of a "brute-force" computer program to access a university's computer system constituted access "without authorization.").

<sup>20</sup> See *United States v. Nosal*, 844 F.3d 1024, 1038 (9th Cir. 2016).

<sup>21</sup> *hiQ Labs*, 31 F.4th at 1180.

<sup>22</sup> *Vox Mktg. Grp. v. Prodigy Promos*, 556 F. Supp. 3d 1280, 1287 (D. Utah 2021).

the link’s non-public nature indicated to the defendant that he lacked authorization to enter the meeting, even if he did not have to circumvent a password requirement to do so.

Alternatively, the prosecution could argue that the Zoom-bomber’s conduct once inside the non-password-protected meeting violated the platform’s terms of service, which prohibit the display of hateful conduct, violent content, and pornography, making his use of the platform unauthorized.<sup>23</sup> However, this argument will likely fail because most courts have declined to find violating a website’s terms of service sufficient to trigger CFAA liability, citing due process concerns like lack of notice and the negative public policy implications of turning minor, everyday computer violations, like using a work computer to check personal email, into federal crimes.<sup>24</sup>

#### Element Four: “Obtains Information”

Legislative history and subsequent case law indicate that the standard for showing a defendant “obtain[ed] information” under § 1030(a)(2)(C) is low and will be satisfied “whenever a person using a computer contacts an Internet website and [his computer] reads any response from that site.”<sup>25</sup> In the context of Zoom-bombing, this fourth element is likely satisfied by the perpetrator clicking on the meeting link to request access to the virtual meeting, his request being transmitted through the Internet to Zoom’s server, and the signal granting him access to the meeting being transmitted from the server back to his computer. The meeting being password-protected could also bolster the prosecution’s argument that the defendant “obtained information” from Zoom’s server because the Zoom-bomber’s submission of the password to the

<sup>23</sup> See ZOOM, *Acceptable Use Guidelines*, <https://explore.zoom.us/en/acceptable-use-guidelines/> (last accessed Feb. 21, 2023).

<sup>24</sup> See *hiQ Labs*, 31 F.4th at 1180; *Facebook, Inc. v. Power Ventures, Inc.*, 844 F.3d 1058, 1068 (9th Cir. 2016); *Sandvig v. Barr*, 451 F. Supp. 3d 73, 87 (D.D.C. 2020).

<sup>25</sup> *United States v. Drew*, 259 F.R.D. 449, 457–458 (C.D. Ca. 2009).

server and the server granting him access to the meeting is an even clearer instance of the defendant's computer contacting the server and reading a response from it.

## Conclusion

The ability to prosecute a Zoom-bombing attack using the CFAA is highly dependent on the facts of the case and the relevant court's case law. Zoom-bombings of password-protected meetings likely can be prosecuted under the CFAA because they meet the requirements of § 1030(a)(2)(C) as interpreted in current case law, but non-password-protected meetings are less likely to do so. In particular, proving access "without authorization" for non-password-protected meetings is challenging given many courts' presumption that websites viewable without a password cannot be accessed "without authorization."

Although the CFAA may not apply to all instances of Zoom-bombing, state computer crime laws or federal laws prohibiting the content shared by the Zoom-bomber, like those criminalizing the possession and dissemination of child pornography, may prove useful in prosecuting Zoom-bombings of non-password-protected meetings. These alternative grounds for prosecution are important because not all meeting hosts can realistically use restrict access to their meetings by implementing password protection or not publicly distributing the meeting link. For example, in some States, meetings implicating a public interest, such as townhalls or school board meetings, are required to be open to the public,<sup>26</sup> and many religious services and support groups, like Alcoholics Anonymous, likely want their meetings to remain publicly accessible to encourage potential members to join. Even if CFAA charges cannot be brought in these situations, prosecuting a Zoom-bombing incident under a different statute is the best route

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<sup>26</sup> See N.Y. STATE SCH. BD. ASS'N, PUBLIC COMMENT GUIDE, [https://www.nyssba.org/clientuploads/nyssba\\_pdf/Events/get-to-know-nyssba-07142021/NYSSBA\\_FAQ\\_Public\\_Comment\\_5520.pdf](https://www.nyssba.org/clientuploads/nyssba_pdf/Events/get-to-know-nyssba-07142021/NYSSBA_FAQ_Public_Comment_5520.pdf) (last accessed Feb. 21, 2023).



to punish to perpetrator and deter against future attacks while keeping these virtual meetings open to all.

## Applicant Details

First Name **Robert**  
 Middle Initial **K**  
 Last Name **Carpenter**  
 Citizenship Status **U. S. Citizen**  
 Email Address [carpenterr2024@lawnet.ucla.edu](mailto:carpenterr2024@lawnet.ucla.edu)

Address

<b>Address</b> <b>Street</b> <b>10401 Wilshire BLVD, Apt 401</b> <b>City</b> <b>Los Angeles</b> <b>State/Territory</b> <b>California</b> <b>Zip</b> <b>90024</b> <b>Country</b> <b>United States</b>
--

Contact Phone Number **6508617405**

## Applicant Education

BA/BS From **Haverford College in Pennsylvania**  
 Date of BA/BS **May 2018**  
 JD/LLB From **University of California at Los Angeles (UCLA) Law School**  
[http://www.nalplawschoolsonline.org/ndlsdir\\_search\\_results.asp?lscd=90503&yr=2011](http://www.nalplawschoolsonline.org/ndlsdir_search_results.asp?lscd=90503&yr=2011)  
 Date of JD/LLB **May 10, 2024**  
 Class Rank **Not yet ranked**  
 Law Review/Journal **Yes**  
 Journal(s) **UCLA Journal of Law & Technology**  
 Moot Court Experience **Yes**  
 Moot Court Name(s) **UCLA Law Skye Donald Moot Court Competition (2022)**  
**UCLA Law Spring Internal Moot Court (2023)**

## Bar Admission

## Prior Judicial Experience

Judicial  
Internships/        **No**  
Externships  
Post-graduate  
Judicial Law       **No**  
Clerk

## Specialized Work Experience

## Recommenders

Motomura, Hiroshi  
Motomura@law.ucla.edu  
(310) 206-5676  
Langer, Maximo  
langer@law.ucla.edu  
(310) 825-8484  
Marcus, David  
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**This applicant has certified that all data entered in this profile and any application documents are true and correct.**

**Robert Kory Carpenter**

10401 Wilshire Boulevard, Apt. 401, Los Angeles, CA 90024  
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June 12, 2023

The Honorable Jamar K. Walker  
United States District Court  
for the Eastern District of Virginia  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I am a rising third-year student at UCLA School of Law, where I am an Articles Editor of the *UCLA Journal of Law and Technology* and a member of the UCLA Law Moot Court Honors Board. I am respectfully applying for a clerkship with your chambers for the 2024–2025 term.

My desire to clerk stems from my interest in legal research and writing, and my experience working as a paralegal prior to law school. In my first year of law school, I realized that I have a passion for communicating complex concepts in a way that is clear and easy for my audience to understand, and I have pursued my passion for writing and oral advocacy at UCLA Law. I was honored to be selected as a member of the Moot Court Honors Board and an Articles Editor for the *UCLA Journal of Law and Technology*, and I look forward to continuing to hone my oral advocacy and writing skills.

On the experiential side, my work as a paralegal assisting a special counsel investigation into the State of New Jersey's corporate tax incentive program strengthened my desire to clerk in your chambers. Not only did I enjoy traveling around New Jersey for witness interviews, but I also appreciated the process of uncovering the truth and presenting our findings to the public in a written report. The experience concretized my desire to become a government lawyer, ideally a corruption prosecutor, and I am particularly interested in clerking in your chambers given your record of public service.

Enclosed please find my resume, unofficial law school transcript, and writing sample. In addition, I have attached letters of recommendation from Professor Hiroshi Motomura (motomura@law.ucla.edu, (310) 206-5676), Professor David Marcus (marcus@law.ucla.edu, (310) 794-5192), and Professor Máximo Langer (langer@law.ucla.edu, (310) 825-8484). I am available at your convenience and would be privileged for the opportunity to interview with you. Thank you very much for your consideration.

Respectfully,



Robert Kory Carpenter

## Robert Kory Carpenter

10401 Wilshire Boulevard, Apt. 401, Los Angeles, CA 90024  
(650) 861-7405 | CarpenterR2024@lawnet.ucla.edu

### EDUCATION

#### **UCLA School of Law**, Los Angeles, CA

Juris Doctor expected May 2024 | GPA: 3.458

*Honors:* Leveton Memorial Scholarship

*Journals:* UCLA Journal of Law and Technology, *Articles Editor*

*Moot Court:* Moot Court Honors Board, *Problem Developer*

1L Skye Donald Moot Court Competition, *Judge* | Moot Court, *Participant*

*Activities:* UCLA Law Fellows, *Mentor* | UCLA Law Run Club, *Member*

#### **Haverford College**, Haverford, PA

Bachelor of Arts, History, May 2018 | GPA: 3.513

*Honors:* Andrew Silk Summer Scholarship | Centennial Conference Academic Honor Roll (3 of 3 years)

*Activities:* Men's Varsity Lacrosse Team | Transfer Student Resource Person

### EXPERIENCE

#### **U.S. Securities and Exchange Commission**

San Francisco, CA

*SEC Legal Intern, Division of Enforcement*

Summer 2023

#### **FINRA**

Los Angeles, CA

*Legal Extern, Department of Enforcement*

Summer 2022

- Drafted memoranda of law in support of formal disciplinary actions
- Performed factual and legal research in preparation for on the record interviews
- Crafted summaries of deposition transcripts and other evidence for use in complaints and hearings

#### **Walden Macht & Haran LLP**

New York, NY

*Paralegal Specialist*

April 2019 – June 2021

##### Task Force Investigation into Improperly Awarded Tax Incentives

- Cite-checked, proofread, and prepared exhibits for three reports presenting findings to the public
- Attended witness interviews and memorialized findings
- Organized and contextualized relevant documents and facts within case chronologies

##### Fraudulent Invoice Litigation

- Assisted with drafting of legal briefs for federal litigation against construction vendors who used fraudulent invoices to double charge the firm's clients
- Prepared and introduced hundreds of documents during ten depositions taken over a month
- Managed creation and maintenance of e-discovery database containing thousands of case documents

##### Court Filing Responsibilities

- Filed court documents for legal proceedings in U.S. District Courts, New York State Supreme Court, and New Jersey Superior Court
- Monitored judges' and jurisdictions' local rules to ensure case filings were compliant

#### **Unified Social**

New York, NY

*Digital Campaign Coordinator*

September 2018 – February 2019

- Executed advertising campaigns across major social media platforms for Toyota and AT&T
- Drafted weekly client reports that identified successes and opportunities for improvement

#### **MAXSA Innovations**

Fairfax Station, VA

*Marketing Intern*

Summer 2017

- Implemented search engine optimization (SEO) strategies to improve MAXSA products' position in Amazon.com search results
- Ran paid search word campaigns on Amazon Marketing Services that doubled one product's sales

### INTERESTS

Running, museums, movies, foreign affairs, music, and San Francisco 49ers Football

Student Copy / Personal Use Only | [405682806] [CARPENTER, ROBERT]

# University of California, Los Angeles

## LAW Student Copy Transcript Report

For Personal Use Only

This is an **unofficial/student copy** of an academic transcript and therefore does not contain the university seal and Registrar's signature. Students who attempt to alter or tamper with this document will be subject to disciplinary action, including possible dismissal, and prosecution permissible by law.

### Student Information

Name: CARPENTER, ROBERT K  
 UCLA ID: 405682806  
 Date of Birth: 04/26/XXXX  
 Version: 08/2014 | SAITONE  
 Generation Date: June 03, 2023 | 06:32:06 PM  
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### Program of Study

Admit Date: 08/23/2021  
 SCHOOL OF LAW  
 Major:  
 LAW

### Degrees | Certificates Awarded

None Awarded

### Graduate Degree Progress

SAW COMPLETED IN LAW 658, 22F

### Previous Degrees

None Reported

### California Residence Status

Resident

Student Copy / Personal Use Only | [405682806] [CARPENTER, ROBERT]

### Fall Semester 2021

Major:  
LAW

CONTRACTS	LAW 100	4.0	12.0	B
INTRO LEGL ANALYSIS	LAW 101	1.0	0.0	P
LAWYERING SKILLS	LAW 108A	2.0	0.0	IP
Multiple Term - In Progress				
PROPERTY	LAW 130	4.0	13.2	B+
CIVIL PROCEDURE	LAW 145	4.0	13.2	B+
		<u>Atm</u>	<u>Psd</u>	<u>Pts</u>
	Term Total	13.0	13.0	38.4
				<u>GPA</u>
				3.200

### Spring Semester 2022

LGL RSRCH & WRITING	LAW 108B	5.0	15.0	B
End of Multiple Term Course				
CRIMINAL LAW	LAW 120	4.0	14.8	A-
TORTS	LAW 140	4.0	13.2	B+
CONSTITUT LAW I	LAW 148	4.0	12.0	B
IMMIGRATION POLICY	LAW 165	1.0	0.0	P
		<u>Atm</u>	<u>Psd</u>	<u>Pts</u>
	Term Total	18.0	18.0	55.0
				<u>GPA</u>
				3.235

### Fall Semester 2022

BUSINESS ASSOCIATNS	LAW 230	4.0	14.8	A-
IMMIGRATION LAW	LAW 331	4.0	16.0	A
HUMAN RGTS WAR CRIM	LAW 658	3.0	12.0	A
MEDIATION	LAW 707	4.0	0.0	P
		<u>Atm</u>	<u>Psd</u>	<u>Pts</u>
	Term Total	15.0	15.0	42.8
				<u>GPA</u>
				3.891

### Spring Semester 2023

EVIDENCE	LAW 211	4.0	13.2	B+
FEDERAL COURTS	LAW 212	3.0	9.9	B+
GLBL PRSPTV CRM PRO	LAW 614	3.0	12.0	A
INTERNL INVESTGN	LAW 737	3.0	12.0	A
		<u>Atm</u>	<u>Psd</u>	<u>Pts</u>
	Term Total	13.0	13.0	47.1
				<u>GPA</u>
				3.623

Student Copy / Personal Use Only | [405682806] [CARPENTER, ROBERT]



**LAW Totals**

	<u>Atm</u>	<u>Psd</u>	<u>Pts</u>	<u>GPA</u>
Pass/Unsatisfactory Total	6.0	6.0	N/a	N/a
Graded Total	53.0	53.0	N/a	N/a
Cumulative Total	59.0	59.0	183.3	3.458
Total Completed Units	59.0			

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## UCLA School of Law

HIROSHI MOTOMURA  
SUSAN WESTERBERG PRAGER DISTINGUISHED PROFESSOR OF LAW  
FACULTY CO-DIRECTOR, CENTER FOR IMMIGRATION LAW AND POLICY

SCHOOL OF LAW  
BOX 951476  
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Phone: (310) 206-5676  
Email: motomura@law.ucla.edu

May 16, 2023

Dear Judge:

I write this letter to offer a strong recommendation on behalf of Robert Carpenter for a clerkship in your chambers.

I've had consistent contact with Rob since the spring of 2022. It was the spring semester of his first year at the UCLA School of Law, and he was enrolled in my course on Immigration Policy in a Contentious Age. Then, in fall 2022, Rob took my Immigration Law course. Since we first met, he has reached out to meet with me on a regular basis to talk about course material as well as general questions about his career plans and current events.

Rob is an impressive student, very thoughtful and very analytical. This became clear in the spring 2022 Immigration Policy course. This was a small-group first-year elective, with 20 students and entirely based on discussion of readings on current policy issues. Students wrote short papers in reaction to the readings and then engaged in robust discussion during each session. Rob stood out as especially thoughtful in both his writing and his contributions to our class discussions. I was especially impressed by his willingness to raise questions about various forms of conventional wisdom that can hamper honest discussion of immigration policy. It was typical of him to ask a question that probed a very basic assumption that others had been making without the degree of thought that the assumption actually deserved.

In my Immigration Law course – a challenging four-unit course that included close attention to complex statutes, constitutional doctrine, and the practical challenges of client counseling, Rob continued his pattern of thoughtful questions and insightful contributions. In the group of about 65 students, he stood out. Outside the classroom, Rob took the time to come to office hours to discuss the material more deeply than had been possible in class. On those occasions, I appreciated his observations about my approach to teaching and about the flow of group discussions.

Rob earned a solid “A” in Immigration Law. This was entirely consistent with his classroom performance and the many conversations that we had about the material. The first-year elective on Immigration Policy was a pass/no-pass course without grading, but he was outstanding in that setting, too. And I know from his short papers in Immigration Policy that he is a strong writer. (Immigration Law did not call for any writing other than the final exam.)

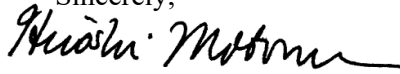
Rob will be an excellent judicial clerk. He is very strong academic, and you will find that he is a delightful person.

May 16, 2023

Page 2

Please contact me if I can provide any further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Hiroshi Motomura". The signature is fluid and cursive, with a long horizontal stroke at the end.

Hiroshi Motomura  
Susan Westerberg Prager Professor of Law  
Faculty Co-Director, Center for Immigration Law and  
Policy

## UCLA School of Law

MAXIMO LANGER  
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DIRECTOR OF THE TRANSNATIONAL PROGRAM ON CRIMINAL JUSTICE

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June 5, 2023

Dear Judge:

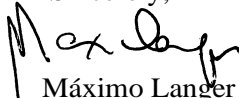
I am writing this letter to express my strong support of Robert Carpenter's application for a clerkship with your chambers. Robert is smart, hardworking, a strong and clear writer, and collegial. In addition, he has prior experience as a legal intern and extern—experiences that will be very valuable as a law clerk—and is very interested in doing a clerkship with you. He will be an excellent law clerk.

Rob took my first-year Criminal Law course and my Global Perspectives on Criminal Procedure seminar at UCLA School of Law. He was an excellent student in both classes. In a big class like Criminal Law, he was always prepared for class, worked hard, showed a clear understanding of the subject matter, and was very thoughtful in his responses to my questions when I called on him in class. In addition, his final exam showed he writes well, even under time pressure. On top of these attributes, in Global Perspectives on Criminal Procedure he also demonstrated his great research abilities and his creativity in his final paper. He wrote on the relationship between plea bargaining and sentencing and immigration removal proceedings in Canada and the United States, applying to this topic a concept developed for a different context. In both classes, Rob also showed that he is passionate and takes interest in his work and is always very collegial with his classmates and with me.

Rob also has prior work experience that will be an asset for the work with you. Last summer, he worked as a legal extern in the Department of Enforcement of the Financial Industry Regulatory Authority. And this summer, he is working as a legal intern in the Division of Enforcement of the U.S. Securities and Exchange Commission. His exposure to law runs even longer since he was a paralegal for over two years at a law firm before coming to law school.

Please do not hesitate to call me (my cellular phone is 310-948-6362) if you need further references or would like to talk more about him.

Sincerely,



Máximo Langer  
David G. Price and Dallas P. Price Professor of Law  
Director, Transnational Program on Criminal Justice  
University of California, Los Angeles School of Law  
President, American Society of Comparative Law  
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## UCLA School of Law

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May 30, 2023

Dear Judge,

I write this letter in support of Rob Carpenter's application to clerk in your chambers. Rob is a bright, hardworking, and deeply engaged student. He matches his passion for the law with unusual grit and effort. Rob would be a terrific clerk, and I highly recommend him.

Rob was one of eighty-eight students in my Fall 2021 Civil Procedure course. I admit that, in a course of that size, I usually cannot get to know every student well. But the Fall 2021 semester was special. The first day of classes was the first day most of the students had engaged in any in-person pursuit of any substance since the pandemic's start. The students were unusually interactive and enthusiastic. Also, some students, even in a group of close to one hundred, stand out from Day 1. This was so with Rob. From the start of the semester, he volunteered fearlessly and frequently, often multiple times per class. Rob was not a gunner and did not volunteer just to grab the spotlight. Rather, Rob offered comments when the material grabbed him, something that happened often. I could tell, as invariably when Rob raised his hand he would follow up with a lengthy conversation after class.

Rob performed quite well in my class, earning a B+ on the final exam. Please appreciate that UCLA Law has an unusually rigorous curve. Students who earn B+ grades at UCLA often would rank higher at schools that give instructors more permission to award grades that better match overall performance.

You will note that Rob's grades have followed an impressive upward trajectory. He and I met at the start of his 2L year last August. Rob, clearly upset, wondered why his deep investment in his coursework was not paying off, in terms of his grades, to the extent he had hoped. We spoke for some time, and I recommended a couple of strategies, including regular visits to his professors' office hours. Rob and I connected a couple of times during the fall semester, and he mentioned that he was giving my advice a go. I was really delighted to learn that Rob aced the fall semester of his 2L year, earning A or A- grades across the board.

I cannot claim credit, as I know that Rob worked incredibly hard. But I am glad that he saw the returns from not giving up and instead doubling down on his studies. To my mind, acceleration in law school matters as much – if not more – than velocity. A student who stumbles a bit out of the gate, then steadily improves, not only demonstrates aptitude and intelligence. The student also demonstrates grit, effort, and perseverance.

Rob continued to persevere admirably this spring semester. He took my Federal Courts course, a notoriously difficult subject and one that tends to attract the school's real law junkies. In many ways,

May 30, 2023

Page 2

Rob turned in a repeat performance, volunteering as he did in Civil Procedure with insightful comments and precise and helpful clarifying questions. He also gave me a taste of my own medicine, coming to office hours every week, without fail, for the entirety of the time I had available. (I joke about the “own medicine” bit – I was delighted to have Rob stop by.) Each week he scrupulously reviewed readings and class notes, then came to office hours with a list of terrific questions that got immediately to the heart of what made the material complicated and interesting. Rob also stayed while others asked questions and often chimed in even if the subject strayed from what he had prepared. His effort and passion were really impressive.

I have not yet seen Rob’s grade, as grading is anonymous at UCLA and I have not yet received the class roster matching the grades I turned in with names. I do not need to know this result, however, to know that Rob succeeded fulsomely in the course. Based on our regular conversations over the course of the semester, Rob surely mastered a huge amount of complex material.

I have not supervised Rob’s writing, so I cannot comment directly on his capacity to carry out a large-scale research project. But I have reviewed several exemplars of Rob’s writing, and they are very strong. One, a brief written for a moot court competition, demonstrates Rob’s facility with practice-oriented legal writing. He has developed a precocious ability for this genre. Rob makes punchy, concise arguments that use authority effortlessly and persuasively. He has a particular knack for the sort of subtly clever ways that good lawyers shade what seems like otherwise objective writing in a persuasive direction. Consider the first sentence of his brief: “Petitioner Squabble, Inc. (the “Platform”) asks the Court to overturn a valid act of the California State Legislature aimed at reigning in social media platforms that censor public speech in inconsistent and partisan ways.” This sentence does not include any extreme or inflammatory language, yet it is immediately evident which side Rob represents and how he believes the court should rule.

I have also reviewed a terrific paper Rob wrote for a seminar on comparative criminal procedure. In it, Rob shows how rigidity in Canadian immigration enforcement regimes has tended to generate discretion in criminal prosecution, following a trajectory familiar to the United States. Canadian and American immigration systems have evolved to deny noncitizens convicted of criminal offenses any possible relief from deportation. The lack of any escape valve for sympathetic situations has pushed both criminal justice systems to soften, to reach outcomes that can enable sympathetic defendants to avoid the immigration regime’s harsh inflexibility.

Rob’s paper is elegant, well-researched, and unusually thorough for a seminar paper. It too demonstrates Rob’s strength as a writer – to-the-point, concise prose and a clear, easy-to-follow overall organization.


Rob’s strengths as a student and lawyer-to-be are clear. So too are his strengths as a person. Rob is kind, respectful, and good humored. He enjoys the evident affection of his classmates. Rob looks for ways to help others. He is simply a terrific guy.

May 30, 2023

Page 3

You would have a terrific term with Rob in your chambers. He is passionate about the law, exceptionally diligent, and dedicated. He has all the smarts necessary to produce truly top-flight work, and his judgment and work ethic are first-rate. I highly recommend Rob and hope you will give his application close scrutiny.

Sincerely,

A handwritten signature in black ink, appearing to read "David Marcus", with a long horizontal flourish extending to the right.

David Marcus

**Robert Kory Carpenter**

10401 Wilshire Boulevard, Apt. 401, Los Angeles, CA 90024  
(650) 861-7405 | [CarpenterR2024@lawnet.ucla.edu](mailto:CarpenterR2024@lawnet.ucla.edu)

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**WRITING SAMPLE**

The attached writing sample is a brief I created for a UCLA Law Moot Court competition in spring 2023. The case involved the constitutionality of a hypothetical state statute that bars social media companies from censoring users' speech on their platforms. The problem is adapted from several cases currently pending before the U.S. Supreme Court, and competitors were not allowed to review authorities outside of a closed universe of caselaw. I represented respondents, the State of California and a journalist who had been removed from a social media platform called Squabble.

THE SUPREME COURT OF THE UNITED STATES

SPRING TERM, 2023

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DOCKET NO. 2022-2023

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Squabble, Inc.,

Petitioner,

v.

Arthur Calypso and Indigo Katz,

Respondents.

ON WRIT OF CERTIORARI TO THE

FOURTEENTH CIRCUIT

**Brief for Respondent**

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R22



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## CONSTITUTIONAL PROVISIONS AND RULES

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**QUESTIONS PRESENTED**

Whether HB 3420, which restricts a social media company's ability to censor content by California users and journalists, violates Squabble's First Amendment Right to freedom of speech?

**OPINIONS BELOW**

*Calypso v. Squabble, Inc.*, 22 F.3d 123 (14th Cir. 2022)

## INTRODUCTION

Petitioner Squabble, Inc. (the “Platform”) asks the Court to overturn a valid act of the Califfloida State Legislature aimed at reining in social media platforms that censor public speech in inconsistent and partisan ways. Squabble purports to be both a content curator and voiceless “interactive computer service provider.” The Platform is open to the public, allowing users from around the world to express themselves and communicate with friends. While ninety-nine percent of content uploaded to Squabble instantly appears on the Platform’s feeds, in some cases, Squabble blocks user-content containing political views that the Platform deems “false.”

More and more in today’s society, public debates take place in digital town squares controlled by powerful social media platforms. Although technology advancements have changed where and how people communicate, the Constitution continues to protect people’s ability to express themselves freely. This case centers on the new digital town square and asks if legislatures can create regulations that protect freedom of expression on publicly accessible social media platforms that are exacting increasing amounts of control over society. The answer is clear—yes, Califfloida statute HB 3420 is a conduct regulation that does not violate Squabble’s First Amendment rights. Rather than interfere with social media platforms’ speech, HB 3420 protects social media users’ ability to express themselves online. In addition, invalidating HB 3420 would not only contradict the Court’s precedents, but it would also give Squabble and other large social media platforms the greenlight to censor views they disfavor. Giving social media platforms such a power would chill political speech across society and hinder the United States’ ability to function as a democracy.

HB 3420 is constitutional because it regulates what large social media platforms like Squabble “must do” and “not what they must say.” *Rumsfeld v. F. for Acad. & Institutional Rts., Inc.*, 547 U.S. 47, 60 (2006) (“*FAIR*”). In addition, HB 3420 does not interfere with Squabble’s

ability to express itself by forcing it to respond to user content it does not agree with because it is clear that Squabble’s users do not represent the Platform. *See Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622, 655 (1994) (given cable providers clear role “as a conduit for broadcast signals, there appears little risk that cable viewers would assume that the broadcast stations carried on a cable system convey ideas or messages endorsed by the cable operator.”). Lastly, even if HB 3420 is found to affect speech, the statute is still constitutional because it is content-neutral and any effects on expression are incidental and necessary to promoting the important interest of fostering a vibrant public debate. *FAIR*, 547 U.S. at 67.

### **STATEMENT OF THE CASE**

Petitioner Squabble, Inc. is a social media platform with 1.5 billion users. (R. at 3, 4). The Platform was founded in 2017 as a forum for liberal journalists. (*Id.*). As it grew it pivoted and Squabble now accommodates “voices from across the political spectrum.” (*Id.*).

To join Squabble, users must agree to the Platform’s Terms and Conditions, which state that the Platform may remove posts containing prohibited content such as “false information” and users who repeatedly post prohibited content. (R at 20). Users must also agree to a liability waiver stating that Squabble is an “interactive computer service provider, and thus not liable for censorship,” as set out in 47 U.S.C. § 230(c). (R at 4).

Squabble’s three-part content moderation process is unique among social media platforms as it censors “false information” and other content it prohibits before the content populates on users’ feeds. (R. at 4). While Squabble trumpets “truth” as its corporate motto, in practice ninety-nine percent of user content passes through the Platform’s filtering algorithms “untouched.” (R at 3, 4, & 20). While the vast majority of content posts to Squabble feeds immediately after preliminary filtering, the marginal number of posts flagged by the first algorithm are sent through a second more rigorous filtering algorithm. (R at 4). If the content is

also flagged as violative by the second algorithm, it is finally evaluated by Squabble’s human review board who determines if the content may be posted on the Platform. (R at 4). But Squabble’s content moderation algorithms are inconsistent and often allow prohibited content onto the site. (*Id.*). Squabble has acknowledged that its algorithms can be unreliable and noted that they particularly struggle with foreign language content. (*Id.*).

After a January 2021 newspaper story exposed Squabble’s censorship of conservative journalists, Califfloida passed HB 3420, a law that prohibits social media platforms of a certain size from censoring users based on viewpoint. (R at 6). However, the statute leaves platforms’ ability to respond through all other means. (*Id.*). HB 3420 applies to all social media sites that operate in Califfloida and either possess more than 100 million users or earn annual gross revenue in excess of \$100 million. (R at 20). Squabble easily meets the statute’s requirements as the Platform has 1.5 billion users and made \$32 billion in the most recent fiscal year. (R at 4).

This litigation arises from Squabble’s censorship of conservative journalist Arthur Calypso. On October 14, 2021, Calypso uploaded content to Squabble that the Platform’s algorithms flagged as “false.” (R at 7). When Calypso learned that the content had been flagged and withheld from his followers’ news feeds, he posted a separate statement complaining that the Platform was censoring him and had a misguided understanding of what “truth” means. (R at 7). Calypso’s follow-up statement immediately posted to the Platform and Squabble used its own corporate account (username “Squabble”) to respond, explaining that Calypso was initially censored because he attempted to post “false information.” (R at 7). Upset by the arbitrary explanation and Squabble’s attack on his journalistic integrity, Calypso then responded with incendiary language. (R at 7). Squabble then banned Calypso for repeatedly posting prohibited content in the form of the initial censored post and subsequent use of inappropriate language.

In early 2022, Calypso sued Squabble for violating HB 3420 in Califforida state court. (R at 7). Based on the significant threat social media platform censorship poses to the smooth functioning of democratic society, Califforida Attorney General Indigo Katz joined the litigation as a co-respondent. (R at 7). Squabble then removed the case to federal court and countersued, claiming that HB 3420 violates its First Amendment rights by forcing it to host content it believes is “false.” (R at 7-8). The district court ruled for Squabble but the circuit court reversed, holding that Squabble does not produce expressive speech and thus HB 3420 does not compel the Platform to speak in violation of its First Amendment rights. (R at 11-12). Squabble now appeals to the U.S. Supreme Court.

### **ARGUMENT**

#### **I. HB 3420 Regulates Conduct and does not Interfere with Squabble’s Expression**

The First Amendment guarantees speakers the ability to choose the content of their own message or to not speak at all. *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Bos.*, 515 U.S. 557, 573 (1995). The government has the ability to force a person to accommodate third-party speech and the Court has only limited this ability when hosting another person’s speech would interfere with the host’s message. *FAIR*, 547 U.S. at 63. Third-party speech accommodation laws interfere with a host’s expression when they: (1) alter the message conveyed by the host’s inherently expressive conduct; or (2) burden the host’s ability to communicate its own desired message. *Hurley*, 515 U.S. at 574; *Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241, 256 (1974). On the other hand, the Court has upheld laws regulating non-expressive conduct such as passively transmitting others’ content because it does not interfere with any cognizable expression. *Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622 (1994).

**A. Squabble’s Content Moderation is not Inherently Expressive and does not Communicate any Cognizable Theme or Message**

In addition to verbal and written expression, the First Amendment also protects conduct that is inherently expressive such that a reasonable person would recognize that the conduct conveys a coherent message. *See e.g., Hurley*, 515 U.S. at 568-69 (holding that a parade was expressive conduct because each marching unit could be perceived as representing the parade organizer’s judgement of what themes deserved celebration). But conduct is not speech just because a person acts with intent to convey a message. *FAIR*, 547 U.S. at 65-66. Instead, the First Amendment only protects conduct that is inherently expressive and conveys an idea that is “overwhelmingly apparent.” *Id.* at 66 (quoting *Texas v. Johnson*, 491 U.S. 397, 406 (1989)).

In *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.* (“*FAIR*”), the Court held that a statute requiring law schools to accommodate military recruiting events did not interfere with the schools’ expression because hosting the recruiters did not convey a cognizable message. 547 U.S. at 65-66. The law school plaintiffs argued that the regulation interfered with their speech because they were denying military recruiters access in order to protest the government’s homophobic “don’t ask, don’t tell” policy. *Id.* at 52. The Court held the law schools’ practice of excluding military recruiters from their grounds and forcing interviews to nearby undergraduate campuses was not inherently expressive. Specifically, no observer of the law schools’ conduct would be able to discern whether the interviews were happening off-campus because a school disagreed with government policy or simply because all of the law school’s meeting rooms were occupied. *Id.* at 66. Furthermore, the Court found that the schools’ statement explaining their opposition to the policy was separate from the conduct regulated by the law. *Id.* at 64-65. Thus, the statute only regulated non-expressive conduct—hosting military interviews—and did not interfere with the law schools’ ability to speak their desired message. *Id.*



Far from the inherently expressive nature of a parade or flag burning, Squabble’s content moderation practices resemble the non-expressive conduct at issue in *FAIR*. Squabble’s content moderation does not prioritize any type of content and instead allows the vast-majority of content to post unencumbered. Additionally, content that violates Squabble’s rules frequently appears on users’ feeds because the Platform’s content moderation algorithms are unreliable and often fail to filter prohibited content. (R at 4). Thus, it is impossible to decipher if a post made it onto Squabble’s feeds because Squabble verified its “truth” or instead because the Platform’s algorithms malfunctioned and mistakenly allowed prohibited content onto the site. To this end, the fact that Squabble had to explain to Calypso why his post was removed shows how the Platform’s content moderation is not independently expressive. *See id.* at 66 (“that such explanatory speech is necessary is strong evidence that the conduct at issue here is not so inherently expressive that it warrants protection.”).

In addition, the fact that Squabble exercises minimal editorial discretion while moderating content further emphasizes that the Platform’s content moderation is not expressive. In *Turner Broadcasting System, Inc. v. F.C.C.*, this Court held that passively transmitting others’ speech without contributing editorial judgment does not constitute expression protected by the First Amendment. 512 U.S. at 655. The *Turner* Court upheld a law requiring cable providers to carry local broadcast channels where the providers operated as “conduit[s] for the speech of others” by transmitting TV programming “on a continuous and unedited basis.” *Id.* at 629. Like the cable providers in *Turner*, Squabble largely transmits others’ content without making any contributions of its own. Ninety-nine percent of user-content appears on the Platform immediately after the authoring user presses send and without edits. (R at 4). The difficulty of discerning a coherent message from Squabble’s infrequent exercise of editorial discretion is exacerbated by

the massive amount of content posted to the Platform everyday by Squabble’s 1.5 billion users. As Squabble exercises minimal influence over what users post to the Platform, any editorial discretion exercised by the Platform is drowned out by the sheer volume of user content that does not relate to any particular theme or message. Accordingly, since Squabble’s content moderation does not express any coherent or discernable message it does not constitute speech protected by the First Amendment.

**B. HB 3420 does not Compel Squabble to Speak Because User-Content Posted to the Platform is Clearly not Attributable to Squabble**

According to *PruneYard Shopping Center v. Robins*, a regulation requiring a person to host another’s speech only violates the First Amendment when the accommodated speech is likely to be attributed to the host. 447 U.S. 74, 87 (1980). The threat of attribution to the host constitutes a speech compulsion because it puts pressure on the host to speak in order to dispel the appearance that it agrees with a position that it actually opposes. *Pac. Gas & Elec. Co. v. Pub. Utilities Comm’n of Cal.*, 475 U.S. 1, 16 (1986) (“*PG&E*”).

In *PruneYard*, a group of California high-school students sued the owner of a shopping mall for violating their right to free expression by removing them from the property while they were petitioning against a recent United Nations resolution. *Id.* at 77. In holding for the students, the Court reasoned that since the mall “was open to the public” and could easily disclaim visitors’ expression by posting signs, it was unlikely that the students’ views would be attributed to the mall. *Id.* at 87-88. Accordingly, the state regulation requiring malls to accommodate reasonable visitor expression did not force the mall to clarify that it disagreed with the views expressed by the students because the public nature of the mall made it obvious that visitors do not represent or speak for the mall. *Id.* at 85-88. *But see PG&E*, 475 U.S. at 1, 15-17 (holding that a regulation requiring a utility company to carry an adverse organization’s newsletter in the

excess space of its billing envelopes effectively compelled the utility to speak in order to respond to hostile messages it disagreed with).

Like the mall in *PruneYard*, Squabble is open to the public and invites billions of people to come to the Platform to express themselves. The Platform is not limited to the personal use of Squabble but instead invites “voices from across the political spectrum.” (R. at 3). Squabble even refers to itself as a “public space.” (R at 5). Thus, Squabble’s publicly accessible nature and the multiplicity of diverse views expressed by its users make it unlikely that a user’s speech will be attributed to Squabble. Further, Squabble’s Terms and Conditions make it clear that anyone can post to the Platform so long as they agree to the Platform’s terms. (R at 20). Just as the students’ petitioning for signatures in *PruneYard* could not reasonably be credited as spokespersons for the mall’s views, Squabble user-content clearly does not represent Squabble. Thus, HB 3420’s limitation on Squabble’s content censorship does not burden Squabble with the need to clarify that it disagrees with its users because user-content clearly does not represent Squabble.

In addition, Squabble’s efforts to distinguish users’ speech from its own further emphasizes that users do not speak for the Platform. Squabble can easily disclaim user expression posted on its site and, in fact, Squabble already disclaims responsibility for user-content in section eight of its Terms and Conditions. (R at 7). Specifically, Squabble’s Terms and Conditions state that the Platform is an “interactive computer service provider” (“ICSP”) as defined to 47 U.S.C.A. § 230 and therefore “is not liable for censorship of content.” (R at 20). Section 230 specifically states that ICSPs are not considered the publisher or speaker of any content posted by others on an online platform for purposes of legal liability. 47 U.S.C.A. § 230(c)(1). In addition to informing every user that it disclaims their speech through its reference to section 230, Squabble further separates its views from its users’ by posting messages on the

Platform via its own corporate account. Like all accounts on the Platform, Squabble’s account and its posts are clearly labeled with its username, “Squabble.” (R at 7). Accordingly, HB 3420’s limits on user censorship do not compel Squabble to communicate the speech of others because the Platform’s disclaimer and labeled corporate account, make clear that user speech is distinct from the Platform’s own expression. *See Turner*, 512 U.S. at 657 (reasoning that local broadcast channels’ disclaimers that its TV shows do not represent the views of cable providers weighed for finding that channel must-carry regulations did not compel cable providers to speak).

## **II. HB 3420 is Content-Neutral and Serves a Legitimate Government Interest**

Even if HB 3420 is found to regulate Squabble’s speech, the statute is still lawful because it is content-neutral and easily satisfies intermediate scrutiny. While the First Amendment provides powerful protections over the right of free expression, the right is not limitless. *See e.g., Pittsburgh Press Co. v. Pittsburgh Comm’n on Hum. Rels.*, 413 U.S. 376, 389 (1973) (upholding ordinance that prohibited a newspaper from printing job opening advertisements that discriminated against applicants based on gender). Where a challenging party fails to establish that a regulation interferes with their speech, expression, and other constitutional rights, the regulation is constitutional so long as it rationally serves a legitimate government interest. *PruneYard*, 447 U.S. at 84-88 (applying lower level constitutional scrutiny to uphold a regulation that did not invade plaintiff’s First Amendment rights). On the other hand, content-neutral regulations that impose “incidental” burdens on speech are lawful if the burden is “no greater than is essential,” to promote “a substantial government interest that would be achieved less effectively absent the regulation.” *FAIR*, 547 U.S. at 67 (internal citations omitted).

### **A. HB 3420 does not Interfere with Squabble’s First Amendment Rights**

Where a regulation does not interfere with a party’s freedom of expression, rational basis review applies. In *PruneYard*, the Court applied lower level constitutional scrutiny to uphold a

regulation requiring a mall owner to host visitors' expression where the owner's First Amendment Rights of expression were not threatened and the law at issue furthered a legitimate government interest. *PruneYard*, 447 U.S. at 85. Like the mall in *PruneYard*, Squabble has not established that HB 3420 violates its freedom of expression by interfering with its ability to speak. Thus, as in *PruneYard*, heightened First Amendment scrutiny has not been triggered in this case. *Id.* at 88.

**B. HB 3420 Applies Uniformly to Squabble's Content Moderation Practices Without Consideration for the Ideological Views or Content that Squabble Censors**

Regulations are content-neutral when they "confer benefits or impose burdens on speech without reference to the ideas or views expressed." *Turner*, 512 U.S. at 643. And a content-neutral regulation is lawful if it promotes a "substantial governmental interest" and its incidental affect on "First Amendment freedoms is no greater than is essential." *United States v. O'Brien*, 391 U.S. 367, 377 (1968). In *Turner*, a rule requiring cable providers to carry certain broadcast-channels was content-neutral because it regulated based on channels' locations and technical attributes rather than the TV programming shown or views expressed. 512 U.S. at 643-44 & 655.

HB 3420 is content-neutral because it applies equally to all user content regardless of the of the author's identity or the message conveyed. Further, the statute does not favor or burden any user or viewpoint but instead ensures all users have access to the modern town square regardless of their perspective. Accordingly, as HB 3420 serves the legitimate purpose of promoting public debate and discussion, the regulation is constitutional. *See id.* at 663 (holding that facilitating discussions involving varied political viewpoints, is a "government purpose of the highest order.").

As the Court noted in *Turner*, the First Amendment "does not disable the government from taking steps to ensure that private interests not restrict, through physical control of a critical

pathway of communication, the free flow of information and ideas.” *Id.* at 657. Rather than limit social media platforms’ freedom of speech, HB 3420 protects the general public’s First Amendment freedoms from the social media platforms. Thus, HB 3420 is in line with regulations the Court has upheld because it does not impede speech itself but instead prevents private parties from doing so. *See e.g., id.* (upholding law requiring large cable-providers to carry local channels); *Associated Press v. Nat’l Lab. Rels. Bd.*, 301 U.S. 103, 132-33 (1937) (upholding order prohibiting newspaper from firing an employee for union organizing); *Associated Press v. United States*, 326 U.S. 1, 20 (1945) (upholding order enjoining newspaper conglomerate’s anti-competitive behavior).

### **CONCLUSION**

For the foregoing reasons, this Court should affirm the judgment of the Court of Appeals and hold that California HB 3420 does not compel speech or interfere with Squabble’s ability to communicate its desired message.

Respectfully Submitted,

/s/ R22

R22, Attorney for Respondent

**Applicant Details**

First Name **Alexis**  
 Last Name **Casanas**  
 Citizenship Status **U. S. Citizen**  
 Email Address [arc90@georgetown.edu](mailto:arc90@georgetown.edu)  
 Address

**Address**

**Street**  
**1600 S Eads St Apt 418 N**  
**City**  
**Arlington**  
**State/Territory**  
**Virginia**  
**Zip**  
**22202**  
**Country**  
**United States**

Contact Phone Number **(206) 369-8052**

**Applicant Education**

BA/BS From **Gonzaga University**  
 Date of BA/BS **May 2018**  
 JD/LLB From **Georgetown University Law Center**  
[https://www.nalplawschools.org/employer\\_profile?FormID=961](https://www.nalplawschools.org/employer_profile?FormID=961)  
 Date of JD/LLB **June 5, 2024**  
 Class Rank **School does not rank**  
 Law Review/Journal **Yes**  
 Journal(s) **The Georgetown University Law Journal**  
 Moot Court Experience **No**

**Bar Admission****Prior Judicial Experience**

Judicial Internships/  
Externships      **Yes**  
Post-graduate Judicial  
Law Clerk      **No**

### **Specialized Work Experience**

#### **Recommenders**

Etchingham, Gerald  
Gerald.Etchingham@nrlb.gov  
707-861-9953

Gee, Brian  
Brian.Gee@nrlb.gov  
(628) 221-8820

Feldman, Heidi  
feldman@law.georgetown.edu  
202-662-9396

**This applicant has certified that all data entered in this profile and any application documents are true and correct.**



Alexis Casanas  
1600 S Eads St Apt 418N  
Arlington, VA 22202

June 27, 2023

The Honorable Jamar K. Walker  
United States District Court, Eastern District of Virginia

Dear Judge Walker,

I am a second-year student at Georgetown University Law Center and an executive online editor of the *Georgetown Law Journal*. I interned with trial-level judges at both the United States District Court for the District of Maryland and the National Labor Relations Board. During my third year, I will also be a member of the Appellate Litigation Clinic at Georgetown. I am writing to apply for a 2024 term clerkship in your chambers. I have no preference between the one- or two-year term clerkship.

Despite the stress of transitioning from male-to-female during my first year of law school, I succeeded academically, earning a place on the Dean's List, achieving the highest grade in my Communication Design and the Law class, and securing a position on the *Georgetown Law Journal*. As a transgender woman, I can also bring that perspective to chambers at a time when transgender issues are increasingly coming before courts. I also have full-time work experience from before law school; this clerkship would not be my first real job.

I have enclosed my resume, law school transcript, and writing sample. Letters of recommendation from Heidi Li Feldman, professor of law at Georgetown University Law Center; Judge Brian D. Gee, Administrative Law Judge at the National Labor Relations Board; and Judge Gerald M. Etchingham, Associate Chief Administrative Law Judge at the National Labor Relations Board are attached.

Thank you for your consideration. If you require any further information, please contact me by email at [arc90@georgetown.edu](mailto:arc90@georgetown.edu) or by telephone at (206) 369-8052.

Sincerely,  
Alexis Casanas

## ALEXIS RENEE CASANAS

1600 S Eads St Apt 418N, Arlington, VA 22202 • (206) 369-8052 • arc90@georgetown.edu

### EDUCATION

#### GEORGETOWN UNIVERSITY LAW CENTER

*Juris Doctor*

GPA: 3.70

Honors: Public Interest Fellow, Dean's List (2021-22), CALI Award (Communication Design & Law)

Activities: The Georgetown Law Journal (Executive Online Editor, Volume 112), Appellate Litigation Clinic  
American Constitution Society (1L Representative), OutLaw (1L Representative), National Lawyers Guild

Washington, DC

Expected May 2024

#### GEORGE WASHINGTON UNIVERSITY

Master of Arts, in Middle East Studies

Activities: International Affairs Review (Staff Writer)

- Completed 27 hours of coursework

Washington, DC

August 2018 - Oct 2019

#### GONZAGA UNIVERSITY

Bachelor of Arts, *cum laude*, in International Relations

Honors: President's List or Dean's List every semester

Activities: Model United Nations (Parliamentarian), Improvisational Theater Troupe

Spokane, WA

May 2018

### EXPERIENCE

#### AMERICAN FEDERATION OF TEACHERS

*Peggy Browning Fellow*

- Researched and drafted memoranda on topics including AI regulations in education, federal sector labor organizing, and novel constitutional arguments for transgender rights
- Closely tracked and timely summarized Supreme Court orders and opinions

Washington, DC

May – August 2023

#### NATIONAL LABOR RELATIONS BOARD, DIVISION OF JUDGES

*Student Volunteer*

- Analyzed changes in NLRB remedies to help prepare for ALJ Conference
- Drafted memoranda and portions of ALJ decisions

Washington, DC

January – April 2023

#### HON. THEODORE D. CHUANG

*Judicial Intern*

- Drafted a memorandum opinion and two memorandum orders
- Wrote memoranda on several issues, including ERISA and Title VII
- Observed several proceedings, including a full criminal trial

Greenbelt, MD

June – July 2022

#### SUTTELL & HAMMER, P.S.

*Legal Assistant*

- Provided initial review of service of process.
- Managed process servers, including deciding whether and where to continue unsuccessful service efforts.
- Ensured complete and accurate data entry into legal management software from various documents.

Bellevue, WA

Nov. 2019 – Apr. 2021

### INTERESTS

- International Travel – Jordan 2019 & 2016, Hungary & Czech Republic 2016, Italy 2014.
- Puzzles – Especially word puzzles, such as the New York Times crossword or Wordle
- Chess – Poorly, but enthusiastically.

This is not an official transcript. Courses which are in progress may also be included on this transcript.

Record of: Alex Rene Casanas  
GUID: 804285144

Course Level: Juris Doctor

Entering Program:

Georgetown University Law Center  
Juris Doctor  
Major: Law

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
Fall 2021							
LAWJ	001	92	Civil Procedure David Hyman	4.00	A-	14.68	
LAWJ	002	92	Contracts Girardeau Spann	4.00	B+	13.32	
LAWJ	005	22	Legal Practice: Writing and Analysis Sara Creighton	2.00	IP	0.00	
LAWJ	008	23	Torts Glen Nager	4.00	A-	14.68	

	EHrs	QHrs	QPts	GPA
Current	12.00	12.00	42.68	3.56
Cumulative	12.00	12.00	42.68	3.56

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
Spring 2022							
LAWJ	003	21	Criminal Justice Julie O'Sullivan	4.00	B+	13.32	
LAWJ	004	21	Constitutional Law I: The Federal System Cliff Sloan	3.00	A	12.00	
LAWJ	005	22	Legal Practice: Writing and Analysis Sara Creighton	4.00	B+	13.32	
LAWJ	007	92	Property Audrey McFarlane	4.00	A	16.00	
LAWJ	1349	50	Administrative Law	3.00	A-	11.01	
LAWJ	611	07	Communication Design & Law: Re-Designing Legal Information Jacklynn Pham	1.00	P	0.00	

Dean's List 2021-2022

	EHrs	QHrs	QPts	GPA
Current	19.00	18.00	65.65	3.65
Annual	31.00	30.00	108.33	3.61
Cumulative	31.00	30.00	108.33	3.61

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
Fall 2022							
LAWJ	1338	05	Think Like a Lawyer: Elements for American Legal Analysis Seminar	3.00	B+	9.99	
LAWJ	1495	05	The Role of the State Attorney General	3.00	A	12.00	
LAWJ	165	02	Evidence	4.00	A	16.00	
LAWJ	264	05	Labor Law: Union Organizing, Collective Bargaining, and Unfair Labor Practices	3.00	A-	11.01	
LAWJ	361	02	Professional Responsibility	2.00	B	6.00	

	EHrs	QHrs	QPts	GPA
Current	15.00	15.00	55.00	3.67
Cumulative	46.00	45.00	163.33	3.63

-----Continued on Next Column-----

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
Spring 2023							
In Progress:							
LAWJ	1491	14	Externship I Seminar (J.D. Externship Program)	4.00	In Progress		
LAWJ	191	08	Worker Rights in the Global Economy Seminar	2.00	In Progress		
LAWJ	215	08	Constitutional Law II: Individual Rights and Liberties	4.00	In Progress		
LAWJ	263	05	Employment Law	3.00	In Progress		
Transcript Totals							
				EHrs	QHrs	QPts	GPA
Current				15.00	15.00	55.00	3.67
Annual				46.00	45.00	163.33	3.63
Cumulative				46.00	45.00	163.33	3.63
End of Juris Doctor Record							



United States Government

## **NATIONAL LABOR RELATIONS BOARD**

**Division of Judges – San Francisco Branch  
1301 Clay St. – Suite 1550-S  
Ron Dellums Federal Building  
Oakland, CA 94612  
Phone (415) 356-5255 Fax (415) 356-5254  
April 28, 2023**

Re: Alexis Casanas

To Whom It May Concern:

It is a pleasure to recommend Alexis Casanas to you. Alexis worked in our office as a voluntary law clerk during her winter semester researching various legal issues and preparing memoranda for our judges. Her work was uniformly above the norm.

The judges at the NLRB San Francisco Division of Judges thoroughly enjoyed working with Ms. Casanas. Ms. Casanas maintained steady and reliable work habits to our work environment. She prepared a memo for me summarizing the facts in a 3-day unfair labor practice hearing with my guidance and her review of transcripts, exhibits and an audio-tape. She also exhibited a good attitude and I enjoyed getting to know her.

Once Ms. Casanas drafted several versions of a statement of facts, we continued to work on a decision of mine where Ms. Casanas created a legal analysis with the established statement of facts after I added my credibility determinations for each of several witnesses. With this 3-month assignment, Ms. Casanas worked diligently and prepared well-written drafts by the given deadlines. Ms. Casanas works independently with few questions. She clearly understands and enjoys labor law. By meeting her deadlines, it is evident that Ms. Casanas knows how to manage a variety of writing assignments with varying deadlines.

I believe Ms. Casanas would be a welcome, productive addition to your office and I would be more than happy to discuss her qualifications further. Do not hesitate to give me a call at my direct number of 707-861-9953.

Sincerely,

*Gerald M. Etchingham*

Gerald M. Etchingham, Associate Chief  
Administrative Law Judge



**United States Government**  
**NATIONAL LABOR RELATIONS BOARD**  
**Division of Judges – San Francisco Office**  
**1301 Clay Street – Suite 1550-S**  
**Oakland, CA 94612**

Telephone: (628) 221-8820  
 Facsimile: (415) 356-5254  
[www.nlr.gov](http://www.nlr.gov)

May 2, 2023

Re: Recommendation for Alexis Casanas

Dear Hiring Coordinator:

I am delighted to give this recommendation for Alexis Casanas, a second-year law student at Georgetown University Law Center who served as our legal intern. As you will see from her application materials, she is an exceptionally bright person with strong research, analytical, writing, and verbal skills. Ms. Casanas also has a reasoned and balanced temperament. I am confident that she will excel as a judicial law clerk.

I am an Administrative Law Judge for the National Labor Relations Board. As the Spring semester intern for the Division of Judges, Ms. Casanas provided me with research assistance as I prepared to speak at the March 2023 Judges' Conference. More specifically, I asked her to research issues and provide written analysis to enable me to discuss the Board's adoption of a new system of essentially consequential damages pursuant to its landmark decision in *Thryv*, 372 NLRB No. 22 (12/11/22).

In *Thryv*, the Board departed from its decades-old system of largely compensatory damages and adopted an expanded framework of make-whole relief. Because this was such a marked departure from past Board law, we had our work cut out for us. I first assigned Ms. Casanas to learn about the Board's traditional remedial system by reading sections of the NLRA along with landmark Supreme Court and Board decisions, such as *NLRB v. Rutter-Rex Mfg.* and *Republic Steel*. Second, I assigned her to find for me sources—including Board decisions, guidance memoranda, law review articles, and Supreme Court cases—which advocated that the Board adopt remedies going beyond its traditional compensatory damages. Third, I asked Ms. Casanas to find me EEOC caselaw that would illustrate how that agency has utilized its statutory authority to award consequential damages. Finally, I tasked her with anticipating what types of evidence would be necessary in future Board cases to warrant consequential remedies, such as the reimbursement of credit card late fees, attorney's fees related to credit collection actions against an unlawfully discharged worker, and relocation costs incurred by a worker due to their need to search for interim employment. Each week, I instructed Ms. Casanas to

draft a memo containing legal analysis and links covering various remedial topics. We would spend time discussing her findings and bouncing ideas off each other.

Based on her work for me and our weekly Zoom discussions, I developed several favorable observations about Ms. Casanas. Clearly, she is very bright. The NLRA is different from a lot of Federal statutes, and Ms. Casanas was able to understand and navigate the Act immediately. Moreover, her thought process is mature and reasoned—she didn't just parrot her research or take reactive positions; she was able to internalize her findings and present balanced points of view. Not many law students are able to do this so effectively. I appreciated how hardworking and motivated she was. Remedial relief is not a subject that a lot of people find interesting, but Ms. Casanas took to it quickly. Additionally, I do not provide interns with a lot of handholding. I do this by design, so that I can see how well they figure things out for themselves. Ms. Casanas did that. She is articulate and able to clearly express her ideas, even on subtle legal concepts. Finally, Ms. Casanas is personable and I enjoyed our weekly conversations very much. She is pleasant, funny, and interesting.

By the time that I gave my presentation, I was fully prepared—thanks to the research that Ms. Casanas provided me and our weekly discussions of those issues. I was very pleased with her work. For this reason, I strongly recommend that you select her a judicial law clerk.

If you have any questions, please feel free to call me directly at (202) 903-9269.

Very truly yours,

/s/ *Brian D. Gee*

Brian D. Gee

Administrative Law Judge

**Georgetown Law**  
600 New Jersey Avenue, NW  
Washington, DC 20001

May 18, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I strongly and enthusiastically recommend Alexis Casanas for a judicial clerkship. Alexis is one of the best and most promising law students I have taught in my roughly thirty years of law teaching. She easily places in the top ten percent.

Alexis has taken two, very different courses I teach, and she performed impressively in both of them. One is a course entitled "Role of the State Attorney General" and the other is a seminar entitled, "Think Like a Lawyer: Basic Elements of American Legal Analysis." The state attorney general course is focused on the powers and duties of state attorneys general; the relationship between their offices and other parts of state government; cross-state attorney general efforts; and specific substantive areas, such as consumer protection, antitrust, and environmental protection. The seminar intensively examines legal conceptions of liberty and tyranny; sovereignty; trade, labor, and commerce; and enfranchisement and democracy. Most of the readings are primary source documents dating from the 1600s (including English and colonial documents) through the antebellum period in the United States.

As you can imagine, the skills and capacities required to do well in each of these courses are different and varied. Alexis stood out in both. She read a very wide range of materials with care and insight, and she was always able to synthesize her understanding and bring it to bear usefully on class discussions and exercises. In brief writing assignments in both classes, in her final examination for the state attorney general class, and in her seminar paper, Alexis fully showcased her outstanding writing abilities. She writes with exceptional clarity and superb organization. Her seminar paper was not quite as deep as those of some other class members, and so, in a very competitive group, Alexis earned a B+ rather than an A- or A, but this should in no way count against her as a clerkship candidate. The paper was a solid piece of work. Overall, in her work with me, Alexis has powerfully demonstrated that she is first-rate legal thinker and communicator.

Whether writing or speaking, Alexis displays her keen intelligence and thoughtfulness. She is not shy about sharing her ideas, but she never simply spouts off or rambles. She enriches all the conversations she joins; I always look forward to hearing what she has to say. Moreover, her classmates always seemed equally interested, a mark of the good relationships she has with them. I am confident that she will get along with you and other judges, members of support staff, other clerks, and attorneys before the court. She is gracious, poised, and mature. You will enjoy working with her.

I recommend Alexis Casanas most highly and without reservation. Please do not hesitate to contact me with any questions you may have.

Yours truly,

Heidi Li Feldman, J.D., Ph.D.  
Professor of Law  
Associate Professor of Philosophy by courtesy  
feldmanh@law.georgetown.edu  
202-279-0131

Heidi Feldman - feldman@law.georgetown.edu - 202-662-9396

**Casanas Writing Sample**

This memorandum was written as part of my Summer 2022 internship with Judge Chuang at the United States District Court for the District of Maryland. It is used with his permission. It has been lightly edited to remove identifying information for the case and parties.



**MEMORANDUM**

TO: Clerk  
FROM: Alexis Renee Casanas  
DATE: June 28, 2022  
RE: XX-XXXXX Plaintiff v. Defendant, Motion to Remand

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**QUESTION PRESENTED**

Whether 28 U.S.C. § 1441(b)(2) allows removal that would otherwise violate the forum-defendant rule when the forum-defendant has not yet been served.

**BRIEF ANSWER**

Likely no. Although § 1441(b)(2)'s plain text requires proper joinder and service, a literal application of the text to these circumstances contravenes clear congressional intent. Absent a federal question, remanding to state court is proper.

**BACKGROUND**

In December 2021, the Plaintiffs filed a derivative action against the Defendants in Maryland Circuit Court. Other plaintiffs had filed three cases based on substantially similar facts against the Defendants in the United States District Court for the District of Maryland. The Plaintiffs were the only plaintiffs to file in state court. The Plaintiffs are citizens of [STATE], and several defendants are citizens of Maryland. The Maryland Circuit Court did not issue summonses immediately because of holiday closures, a snowstorm, and the COVID-19 Pandemic. In January 2022, prior to service on any defendant, the Defendants removed the case to the District of Maryland.

The Plaintiffs argue no diversity jurisdiction exists because the defendants include Maryland citizens and citizens of a state may not remove a case from that state's courts on diversity grounds. The Defendants counter that the removal statute's plain text allows a forum-defendant to remove to federal court if removal precedes service.

### DISCUSSION

Generally, a defendant may remove to a federal district court any civil action in a state court over which a district court could exercise original jurisdiction. 28 U.S.C. § 1441(a). Removal is forbidden, however, when a properly joined and served defendant is a citizen of the State where the action was brought. 28 U.S.C. § 1441(b)(2) (hereinafter "the forum-defendant rule"). Courts must strictly construe removal jurisdiction because it implicates federalism. *Mulcahey v. Columbia Organic Chems. Co.*, 29 F.3d 148, 151 (4th Cir. 1994). Courts should resolve all doubts about removal's propriety in favor of retained state court jurisdiction. *Hartley v. CSX Transp., Inc.*, 187 F.3d 422, 425 (4th Cir. 1999); *cf. Medish v. Johns Hopkins Health Sys. Corp.*, 272 F. Supp. 3d 719, 724 (D. Md. 2017) ("Plaintiffs are generally able to choose their preferred forum, and the forum-defendant rule serves to prevent an in-state defendant, who does not face regional discrimination from their state courts, from stymieing a plaintiff's choice of a state court forum."). A court's analysis of a statute ends with its plain language absent some ambiguity. *Hillman v. I.R.S.*, 263 F.3d 338, 342 (4th Cir. 2001). A court may depart from the statute's plain language when a literal application produces an outcome that is (1) demonstrably at odds with clear, contrary congressional intent, or (2) absurd. *See Id.* at 342. Courts have used multiple standards for absurdity, including that the absurdity must be so gross as to shock the general moral or common sense, *Crooks v. Harrelson*, 282 U.S. 55, 60 (1930); the absurdity must be "so monstrous that all

mankind would, without hesitation, unite in rejecting the application,” *Pirie v. Chi. Title & Tr. Co.*, 182 U.S. 438, 452 (1901); or the absurdity must be such that it is impossible that Congress could have intended the result and the absurdity is so clear as to be obvious to everyone, *Gibbons v. Bristol-Meyers Squibb Co.*, 919 F.3d 699, 706 (2d Cir. 2019). Producing anomalous or unwise outcomes is not enough to find absurdity. *See Gibbons*, 919 F.3d at 705.

Courts disagree about whether the forum-defendant rule prevents removal by properly joined but unserved forum-defendants. Some courts find that the plain language is clear, the resulting application is not absurd, and Congress did not clearly express contrary intent. *See Id.* at 707; *Texas Brine Co. v. Am. Arb. Ass’n*, 955 F.3d 482 (5th Cir. 2020); *Bloom v. Library Corp.*, 112 F. Supp. 3d 498 (N.D.W. Va. 2015). Others believe the statute’s purpose is preventing gamesmanship and restricting opportunities for removal, and that allowing removal by unserved forum-defendants contradicts these purposes. *See Goodwin v. Reynolds*, 757 F.3d 1216 (11th Cir. 2014); *Reimold v. Gokaslan*, 110 F. Supp. 3d 641 (D. Md. 2015); *Medish*, 272 F. Supp. 3d at 727; *Phillips Contr., LLC v. Daniels Law Firm, PLLC*, 93 F. Supp. 3d 544 (S.D.W. Va. 2015). In an earlier case where unserved forum-defendants removed to federal court, this Court remanded because the defendants’ interpretation of the forum-defendant rule “entirely thwarted” its purpose. *Alfasigma USA, Inc. v. ExeGi Pharma, LLC*, No. TDC-19-1180, 2019 U.S. Dist. LEXIS 186781 at \*8 (D. Md. Oct. 15, 2019).

Section 1441(b)(2)’s plain text is clear. It requires proper joinder and service. Yet, a literal application produces a result demonstrably at odds with congressional intent, although likely not an absurd result. The forum-defendant rule exists to prevent in-state defendants from avoiding their home state’s jurisdiction. *See Medish*, 272 F. Supp. 3d at 719 (D. Md. 2017). The “properly joined and served” language’s purpose is preventing a plaintiff from fraudulently joining a

defendant to block removal. *See, e.g., Goodwin*, 757 F.3d at 1221. The forum-defendant rule thus addresses removal jurisdiction's federalism concerns while impeding potential gamesmanship by either side. A defendant cannot escape their state's courts and a plaintiff cannot fraudulently keep a case out of federal court. Allowing removal that would otherwise violate the forum-defendant rule because of an accident of timing would defy the rule's purpose. It likely does not rise to the legal standard of absurdity, however, because a loophole in civil procedure is likely not "so monstrous that all mankind would, without hesitation, unite in rejecting the application," and would not shock the general conscience or be clearly and obviously absurd to everyone. Although it does not clear absurdity's high bar, this Court may still depart from the statute's plain text because the literal interpretation is demonstrably at odds with congressional intent.

Supporters of a literal reading would counter that there is no clear congressional intent to contravene. The published legislative history does not explain why Congress added the "properly joined and served" language to the forum-defendant rule. *See Goodwin*, 757 F.3d at 1221. The interpretation that the statute's goal was preventing gamesmanship comes from the courts. *See Id.* The United States Court of Appeals for the Second Circuit, while arguing that there is no clear congressional intent, speculated that Congress may have used service of process as a bright line in the forum-defendant rule, for instance. *See Gibbons*, 919 F.3d at 706. This interpretation sits uncomfortably with the wider context of the removal statute, which deals little with service. There is little indication that this is anything more than a post-hoc rationalization for a loophole that produces results clearly at odds with the statute's purpose. If Congress had intended for this provision to serve as a bright-line rule requiring service, they almost certainly would have made the line bright enough that its existence was unmissable, rather than hiding it in the second half of an adjective-phrase. The only reasonable interpretation of the rule is that of preventing

gamesmanship. Although a direct legislative history is lacking, the structure of the statute reveals Congress's intent.

A critic may also contend that even if the rule's purpose is countering gamesmanship, the "properly joined and served" language applies only to plaintiff-side gamesmanship. This argument misses the forest for the trees. This Court is not interpreting the words "properly joined and served" in isolation, but as part of a larger statutory provision. Although the "properly joined and served" language does aim at preventing gamesmanship by plaintiffs, it is embedded in a larger provision aimed at preventing gamesmanship by defendants. Read as a whole, the statute is meant to close avenues to gamesmanship on both sides, and any interpretation which reads it as enabling gamesmanship in removal jurisdiction ought to be rejected.

Both the Plaintiffs and the Defendants accuse the other of gamesmanship. Filing this action in Maryland Circuit Court despite similar litigation already pending before this Court and despite potential federal question issues may be gamesmanship by the Plaintiffs. Using a controversial loophole in the removal statute to circumvent the plaintiff's choice of venue may be gamesmanship by the defendants. Gamesmanship is never admirable, but the Defendants' conduct is more severe as it interferes with a plaintiff's ability to choose their own forum, implicates removal jurisdiction's inherent federalism concerns, and uses a loophole to turn the forum-defendant rule on its head. The extent of the Plaintiffs' gamesmanship on this issue, however, is merely not selecting arguably the most judicially efficient venue. The rewards for gamesmanship should be minimized wherever possible. This is especially true when the gamesmanship arises from exploiting a loophole in a statute meant to counteract gamesmanship.

## **CONCLUSION**

This case should be remanded to Maryland Circuit Court. Although the plain text of the removal statute would allow removal by an unserved forum-defendant, this is demonstrably at odds with clear congressional intent and twists a statute meant to impede gamesmanship into one that rewards it. Arguments that there is no clear congressional intent or that the statute only prevents plaintiff-side gamesmanship fail when the statute is read in context. For those reasons, the literal reading must be rejected, and this Court should remand.

**Applicant Details**

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 Last Name **Cash**  
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 Address

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**Country**  
**United States**

Contact Phone Number **937-838-7774**

**Applicant Education**

BA/BS From **Ohio State University-Columbus**  
 Date of BA/BS **May 2019**  
 JD/LLB From **Georgetown University Law Center**  
[https://www.nalplawschools.org/employer\\_profile?FormID=961](https://www.nalplawschools.org/employer_profile?FormID=961)  
 Date of JD/LLB **May 19, 2024**  
 Class Rank **School does not rank**  
 Law Review/Journal **Yes**  
 Journal(s) **Georgetown Journal of Gender and the Law**  
 Moot Court **Yes**  
 Experience  
 Moot Court Name(s) **Barristers' Council Appellate Advocacy Division**

**Bar Admission**

### **Prior Judicial Experience**

Judicial Internships/  
Externships      **No**  
Post-graduate Judicial  
Law Clerk      **No**

### **Specialized Work Experience**

#### **Recommenders**

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**This applicant has certified that all data entered in this profile and  
any application documents are true and correct.**



## JULIA CASH

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06/12/2023

The Honorable Jamar K. Walker  
United States District Court for the Eastern District of Virginia  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510

Dear Judge Walker,

I am writing to apply for a clerkship in your chambers for the 2024-25 term. I am a rising third-year student at Georgetown University Law Center. I currently work as a summer associate at Boies Schiller Flexner in Washington, D.C., and will receive my J.D. in May 2024. Long term, I plan to remain in the DMV area. Thus, clerking for you would give me the opportunity to lay down roots while doing the work I most enjoy.

I am well-prepared to be your law clerk. This year at Georgetown, I achieved a grade point average near the top of my class and honed my legal writing and research skills as a member of the *Georgetown Journal of Gender and the Law*. Last summer, I gained hands-on litigation experience while working in the Department of Justice Civil Division, where I drafted dispositive motions in several federal courts. Before I transferred to Georgetown, I spent my first year in law school at the University of Maryland Francis King Carey School of Law, where I secured the highest grade in three of my first-year courses and was invited to join the *Maryland Law Review*.

Enclosed please find my resume, transcript, writing sample, and recommendation letters from former U.S. Deputy Attorney General Donald Ayer, former Assistant U.S. Attorney Bonnie Greenberg, and Professor Paul Rothstein. Please reach out if you need more information or have any questions. Thank you for considering my application.

Sincerely,



Julia Cash

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### EDUCATION

#### GEORGETOWN UNIVERSITY LAW CENTER

##### Juris Doctor

GPA: 3.84  
 Honors: Leahy Moot Court Competition Finalist  
 Journal: *Georgetown Journal of Gender and the Law*  
 Activities: Barristers' Council Appellate Advocacy Division

Washington, DC  
 Expected May 2024

#### UNIVERSITY OF MARYLAND SCHOOL OF LAW

##### First-year J.D. coursework completed

GPA: 3.88 (Top 5%)  
 Honors: CALI Award for Highest Grade in Course: Lawyering I (Fall 2021), Contracts (Fall 2021), Lawyering II (Spring 2022)  
 Maryland Law Scholars Merit Scholarship  
 Journal: *Maryland Law Review* (Invitation extended)  
 Activities: Maryland Public Interest Law Project (Class Representative, Outreach Chair)  
 National Trial Team

Baltimore, MD  
 2021-2022

#### THE OHIO STATE UNIVERSITY

##### Bachelor of Arts, *magna cum laude*, in Political Science (minors in History and Music)

Honors: Ohio State Provost Scholar, STEP Program Scholarship, Dean's List (six of seven semesters)  
 Activities: Mock Trial Team, All- American Award Winner (awarded to top 20 advocates in the country)

Columbus, OH  
 May 2019

### EXPERIENCE

#### BOIES SCHILLER FLEXNER LLP

- Summer Associate beginning May 2023.

Washington, DC

#### THE UNITED STATES DEPARTMENT OF JUSTICE

##### Summer Intern – Civil Division, National Courts Section

- Assisted in drafting appellate briefs and motions to dismiss before the Court of Federal Claims and the U.S. Court of Appeals for the Federal Circuit.
- Performed legal research on matters relating to government contracts, international trade, and constitutional claims.

Washington, DC  
 May 2022 – July 2022

#### DUKE UNIVERSITY MOCK TRIAL TEAM

##### A-Team Coach

- Led a team of Duke undergraduate students in mock trial competitions across the country.
- Taught students how to develop case theory, evidentiary rules, trial advocacy skills, and public speaking skills.

Durham, NC  
 August 2019 – April 2022

#### AMERICORPS

##### Refugee Employment Program Caseworker

- Served refugee communities in Durham, NC, by helping to find and secure employment.
- Taught vocational education, financial planning, and ESL classes to clients. Provided case management services such as scheduling appointments, navigating the healthcare system, setting up new apartments, and public transportation orientation.

Durham, NC  
 September 2019 – August 2020

#### LEGAL AID SOCIETY OF COLUMBUS

##### Legal Intern – The Tenant Advocacy Project

- Assisted with the development of and participated in the Tenant Advocacy Project, an in-court eviction clinic offering day-of representation to pro se litigants facing eviction hearings; interviewed clients, gathered and analyzed evidence, identified legal defenses to eviction, supported supervising attorney in court hearings and negotiations with landlord counsel.
- Worked directly with tenants to keep them informed about the status of their case and to collect additional information.

Columbus, OH  
 December 2017 – June 2019

This is not an official transcript. Courses which are in progress may also be included on this transcript.

Record of: Julia M. Cash  
GUID: 810583167

Course Level: Juris Doctor

**Transfer Credit:**

UNIV MARYLAND BALTIMORE

School Total: 31.00

**Entering Program:**

Georgetown University Law Center

Juris Doctor

Major: Law

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
----- Fall 2022 -----							
LAWJ	1631	05	Federal Practice Seminar: Contemporary Issues	2.00	A-	7.34	
LAWJ	165	02	Irving Cornstein Evidence	4.00	A	16.00	
LAWJ	195	05	Michael Pardo Election Law: Voting, Campaigning and the Law	3.00	B+	9.99	
LAWJ	215	08	Paul Smith Constitutional Law II: Individual Rights and Liberties	4.00	A	16.00	
----- Spring 2023 -----							
LAWJ	1245	05	Gary Peller Trial Practice and Applied Evidence	3.00	A	12.00	
LAWJ	168	07	Advanced Evidence: Supreme Court and the Constitution Seminar	3.00	A	12.00	
LAWJ	178	05	Federal Courts and the Federal System	3.00	A-	11.01	
LAWJ	361	03	Professional Responsibility	2.00	A-	7.34	
LAWJ	469	05	Supreme Court Litigation Seminar	3.00	A	12.00	
----- Transcript Totals -----							
			EHrs	QHrs	QPts	GPA	
Current			13.00	13.00	49.33	3.79	
Cumulative			44.00	13.00	49.33	3.79	
----- End of Juris Doctor Record -----							

OFFICIAL TRANSCRIPT

*Patricia A. Scott*  
 Patricia A. Scott  
 University Registrar  
 University of Maryland, Baltimore

Student No: @00307210

Date Issued: 05-JUN-2022

Record of: Julia M Cash

Page: 1

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Course Level: School of Law

\*\*\*\*\* TRANSCRIPT TOTALS \*\*\*\*\*

Current Program

\*\*\*\*\* Earned Hrs GPA Hrs Points GPA \*\*\*\*\*

Major: Law

TOTAL INSTITUTION 32.00 32.00 124.30 3.88

Maj/Concentration : Law Cardin Required

TOTAL TRANSFER 0.00 0.00 0.00 0.00

SUBJ NO. COURSE TITLE CRED GRD PTS R OVERALL 32.00 32.00 124.30 3.88

\*\*\*\*\* END OF TRANSCRIPT \*\*\*\*\*

INSTITUTION CREDIT:

Fall 2021

LAW 527A CIVIL PROCEDURE 4.00 A- 14.68

LAW 530A CONTRACTS 4.00 A+ 17.32

LAW 535A TORTS 4.00 B+ 13.32

LAW 550A INTRODUCTION TO LEGAL RESEARCH 1.00 A 4.00

LAW 564A LAWYERING I 3.00 A 12.00

Ehrs: 16.00 GPA-Hrs: 16.00 QPts: 61.32 GPA: 3.83

Spring 2022

LAW 506A CRIMINAL LAW 3.00 B+ 9.99

LAW 515U LAW AND SOCIAL CHANGE 3.00 A 12.00

LAW 528A CON LAW I: GOVERNANCE 3.00 A 12.00

LAW 534A PROPERTY 4.00 A 16.00

LAW 565A LAWYERING II 3.00 A+ 12.99

Ehrs: 16.00 GPA-Hrs: 16.00 QPts: 62.98 GPA: 3.94

Fall 2022

IN PROGRESS WORK

LAW 515H CRIMINAL PROCEDURE 3.00 IN PROGRESS

LAW 529A CON LAW II: INDIVIDUAL RIGHTS 3.00 IN PROGRESS

LAW 576G ADV LEG RESEARCH (DISTANCE EDU) 1.00 IN PROGRESS

LAW 578B EVIDENCE 3.00 IN PROGRESS

LAW 592C NATIONAL TRIAL TEAM 2.00 IN PROGRESS

LAW 596S OPIOID EPIDEMIC: LAW & POL SEM 3.00 IN PROGRESS

In Progress Credits 15.00

\*\*\*\*\* CONTINUED ON NEXT COLUMN \*\*\*\*\*